

88TH CONGRESS 1st Session	}	HOUSE OF REPRESENTATIVES	}	REPORT No. 890
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DUAL COMPENSATION ACT

NOVEMBER 7, 1963.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. MURRAY, from the Committee on Post Office and Civil Service, submitted the following

REPORT

[To accompany H.R. 7381]

The Committee on Post Office and Civil Service, to whom was referred the bill (H.R. 7381) to simplify, modernize, and consolidate the laws relating to the employment of civilians in more than one position and the laws concerning the civilian employment of retired members of the uniformed services, and for other purposes, having considered the same, report favorably thereon with amendment and recommend that the bill do pass.

AMENDMENT

The amendment is as follows:

Strike out all after the enacting clause and insert the part printed in italic.

The amendment proposed by the committee strikes out all after the enacting clause and inserts a substitute text which is set forth in italic type in the bill, as reported. A statement of the purpose and effect of the amendment is contained in this report under the heading "Explanation of the Bill, As Reported."

PURPOSES

The general purposes of this legislation are to aid the Federal Government in obtaining the best qualified people available for hard to fill civilian positions; to provide reasonably uniform and fair treatment for retired military personnel with respect to their employment in Federal civilian positions; to provide appropriate safeguards so that Federal civilian employment of retired military personnel will not grant such personnel unfair advantage over civilian employees or unduly hamper career opportunities for civilian employees; and

DUAL COMPENSATION ACT

to consolidate and simplify the present numerous and confusing statutes on dual compensation and dual employment in the Federal Government.

STATEMENT

This legislation is the outcome of more than 8 years of intensive studies and discussion within the executive branch, appropriate committees of the Congress, and representatives of employee, veterans, and retired military personnel organizations.

The conflicting and various approaches recommended by the organizations and by the administration were presented to the House Post Office and Civil Service Committee during 7 days of public hearings. The many diverse views clearly show that it would be impossible to follow completely the approach advocated by any one group.

The committee believes that the reported bill to represent overall a fair and workable approach which most nearly meets the needs of the public interest and the desire and needs of the veterans, military retirees, and civilian employee organizations.

POLICY FOR DUAL EMPLOYMENT AND DUAL COMPENSATION

Administrative recommendation

The bill carries out three of the four major policy criteria recommended by the administration as necessary for dual-employment and dual-compensation laws. The fourth policy criteria is adopted in part.

The policy criteria are set forth below.

(1) The policy should be to codify all existing dual compensation and dual-employment laws into one law which will be relatively simple to interpret and administer and which will eliminate the hardships caused individuals as a result of inadvertent, good faith misunderstandings of the application of the law.

(2) The policy should make it possible for the Government to recruit any retired military person who possesses scarce skills needed for Government programs.

(3) The policy should protect career civilian employees from advantages enjoyed by retired military personnel solely as a result of military service such as, for example, the advantage of veterans preference in reductions in force enjoyed by most military retirees.

(4) The policy should provide for equitable treatment of all retired military personnel, whether Regular or Reserve, officer or enlisted.

Summary of committee action.

The committee action on the dual-compensation and dual-employment criteria described above may be summarized as set forth below.

(1) The bill will repeal existing statutes on dual compensation and dual employment as recommended in the first policy criteria and provide a single statute setting forth clearly the Government's policy on dual compensation and dual employment.

(2) In connection with policy No. (3) above, the bill will remove the unjust advantages enjoyed by retired military personnel over career civilian personnel in reductions in force. Also, a more realistic method will be provided for counting military service for annual leave purposes.

No change is made in the veterans preference benefits for retired military personnel under section 2 of the Veterans Preference Act of 1944 (5 U.S.C. 851) or in the present method of crediting military service for annuity purposes under the Civil Service Retirement Act (5 U.S.C. 2251 and following).

Restrictions and controls are included in sections 204 and 205 of the bill to assure competitive examinations where practicable in connection with the appointment of a retired member to a civilian office in the competitive civil service and to require a delay of 180 days after retirement when such retirees are to be appointed to a civilian office in the Department of Defense.

(3) The committee has adopted the second policy and part of the fourth policy by eliminating the statutory restriction on employment by the Federal Government of retired Regular officers, the only group of military retirees still subject to the office-holding restrictions of section 2 of the act of July 31, 1894, as amended (5 U.S.C. 62). Such officers, however, will have their retired pay reduced; but the status quo of retired reservists and enlisted men will not be changed and they will continue to be able to receive full civilian compensation and full military retired pay.

The committee also adopted a standard policy on dual employment of civilian employees. The bill will limit civilian employees to the equivalent of one full-time job and part-time civilian employees to a combination of part-time positions equaling one full-time position.

Safeguards

The committee recognizes that there are those who feel that this bill represents an excessive and untimely reversal of longstanding legislative policy; particularly in regard to those provisions which repeal the existing laws relating to limitations on dual employment and dual compensation.

There is no dispute that abuses have crept into Federal multiple-office holding. However, a review of the legislative history of the major dual office-holding prohibition of the 1894 act and the dual-compensation prohibition of the 1916 act, each of which was enacted as a part of an appropriation act, shows that the abuses which gave rise to the prohibitions were based on a very few cases. Moreover, the criteria used in those acts—such as \$2,500 in the 1894 act and \$2,000 in the 1916 act—would result in absolute prohibition under today's rates of compensation except for the fact that many exceptions to the prohibitions have been granted by legislation.

The committee is convinced that this legislation does contain adequate safeguards to replace the provisions of law which are repealed by section 402 of the bill, as reported. Sections 204 and 205, relating to the restrictions on appointing retired military personnel, will assure that the needs and requirements of the Government will be the primary basis for determining the propriety of employing retired military personnel. Moreover, section 301 will limit employees of the Government to compensation for one full-time civilian office, unless an exception is granted by the U.S. Civil Service Commission on the basis of the Government employment needs.

JUSTIFICATION

The current situation

There are over 40 different laws and around 200 separate Comptroller General decisions relating either to the employment of retired military personnel in Federal civilian positions or to the employment of a civilian in two different Federal positions. Only a very few experts in Government completely understand these laws and decisions and, unfortunately, they cannot be present at all the places and on all the occasions where decisions on appointments and other matters involving these laws must be made.

Three of these forty or more laws are basic and have Government-wide application.

The act of July 31, 1894, which is commonly referred to as the dual employment or dual office-holding statute, is the earliest of these three basic laws. It provides, briefly, that no person may hold two offices if the salary attached to either is \$2,500 or more per annum. This act applies both to the employment in civilian positions of retired military officers and to the holding of two different civilian positions. Retired military personnel of the regular components are considered to hold office for purposes of this statute. Retired reservists, on the other hand, are not.

In 1894, when this particular law was passed, \$2,500 was a fairly considerable sum of money. Members of Congress then received \$5,000 a year. Assistant secretaries of Cabinet departments were generally paid between \$3,500 and \$4,500 a year. Chief clerks of departments and chiefs of major divisions, most of whom would be in the higher grades of the Classification Act today, were paid \$2,500 a year.

A retired major with 30 years of service in 1894 would have been retired at slightly over \$2,500 a year, and, of course, a major in 1894 held a higher relative military rank than a major of today. There were at that time a total of only 390 Army and Navy retired officers of the rank of major or lieutenant commander and above. This was, therefore, the only group of retired military personnel actually prohibited from holding civilian office by this law when it was passed; other retired officers could accept Federal civilian positions paying less than \$2,500 a year.

By reason of statutory exemptions enacted since 1894, more than 1,100 retired officers of the rank of major or lieutenant commander and above are currently employed as civilian employees in the Department of Defense.

Incidentally, the only exceptions to this law when it was passed were for retired officers who were either elected to public office or appointed by the President subject to Senate confirmation.

In 1924, when increased wages and retired pay had the effect of bringing all officers and some enlisted men under the practical operation of the \$2,500 ceiling, an amendment was passed to except all retired enlisted men (not including warrant officers) and those officers retired for disability incurred in line of duty.

These are still the only exceptions specifically listed in the basic statute. Numerous other exceptions, however, have arisen from other statutes and from interpretations of the courts and the Comptroller General. Out of 40,000 military retirees during fiscal year 1963, less

than 4,200 were subject to the dual employment prohibition of the 1894 act.

The act of 1916, the second of the basic dual-compensation acts, applies to the holding of two civilian Government positions. This law provides that no person may receive two salaries when the combined rate exceeds the sum of \$2,000 per annum. Because of this law's restrictive provisions, many agencies have had to go to Congress to obtain special statutory exemptions.

The act of 1932, the third of the basic dual-compensation acts, applies only to regular officers and to certain "temporary" officers who are, in either case, retired for "noncombat" disability. The act, as amended in 1956, provides that such officers may not receive retired pay if it would result in their receiving more than \$10,000 per year in combined retired pay and salary. If the military retired pay alone is \$10,000 or more, the officer may elect either the retired pay or the salary of the civilian position. If the military pay is less than \$10,000 he may receive the full salary of his civilian position, but his retired pay is reduced as necessary to bring the combined sum within the \$10,000 limit.

Officers who are retired for disability "incurred in combat with an enemy of the United States or caused by an instrumentality of war in time of war" are excepted from this \$10,000 limitation. Retired Reserve officers were considered to be subject to this act until the Court of Claims, in a series of decisions beginning in 1954, held that they were exempt by virtue of other legislation.

All three of these acts may have been quite reasonable at the time they were enacted. Because of changing economic and employment conditions, however, the dollar limitations set in these laws have long since become obsolete, in many cases depriving the Government of the services of highly trained retired military personnel. Numerous exceptions to these laws have been made on a piecemeal basis in an attempt to meet this situation, with the result that, at the present time, the legal hodgepodge is extremely difficult to understand, to say nothing of the impossibility of applying the laws equitably.

From the standpoint of good administration alone, a single, simplified dual-compensation law would save much of the time and money now spent in the executive branch in an attempt to administer and enforce the existing collection of obsolete, complex, and now unrealistic statutes.

Administrative difficulties under the present laws impede efficient Government management. The complexity of the statutes make economy of administration impossible. Agencies encounter continual problems in their efforts to make sure that existing restrictions are observed. The cost involved in attempting to reconcile the various statutes as applied to specific cases is known to be large, even though it cannot be accurately estimated for any given period of time. Numerous decisions of the Comptroller General have been required. Appointing, payroll, certifying, and disbursing officers must be conversant with a large body of highly complicated law.

Injustices to individuals have also occurred because of misinformation and erroneous conceptions of what the law requires. Private bills have been introduced in Congress to relieve cases of unusual hardship that have resulted from such situations.

At the present time, a situation exists where it may be necessary because of recent legal decisions, unless legislative relief is obtained,

retroactively to subject approximately 500 retired commissioned Army of the United States officers and an unknown number of retired commissioned Air Force officers to the dual compensation restrictions of section 12 of the Economy Act of 1932. Similarly, under a recent Comptroller General decision, a number of retired temporary warrant officers have been found to be serving in Federal civilian positions in violation of the Dual Office Holding Act of 1894. These problems are corrected by sections 201 (g) and (h) of the bill.

One of the worst effects of these laws today is the waste of trained manpower so badly needed in the Federal service. Nearly 40,000 carefully selected, highly trained, broadly experienced, loyal, and dedicated American citizens are not available as a source of skilled manpower for programs of their Government. In order to keep our military officer corps at the peak of physical vigor and efficiency, many are retired at a relatively early age, some after only 20 years of military service. Many of these retired officers are qualified as scientists, engineers, administrators, medical officers, and nurses, and in other skilled occupations where the demand for outstanding people is great.

Because of the nature of the work performed by civilians in the military departments, many skills required are not readily available in the civilian market or from among the civilians already employed. The technical knowledge and understanding necessary for the performance of this work are frequently found only among those men who have served the armed services during a career in uniform. In many instances these skills and understandings have been developed through training provided at Government expense in the course of military service. The retired military personnel, consequently, constitute a useful source of scarce skills for civilian employment.

This country cannot afford to waste this skilled manpower. Suitable employment in private industry is precluded for many by the conflict-of-interest laws, by consideration of age and company retirement provisions, or because of the fact that the individual's experience is most useful in Government. In other cases, where the individual is eagerly sought after by private industry, including defense contractors, it would be much to the practical advantage of the Government to have such persons on the Government side rather than the industry side, for example, in weapons systems procurement or contract supervision.

We have obtained some actual examples of recently retired regular officers who cannot now be employed in the Federal service, unless some special statutory provision is obtained:

A medical officer who had specialized in research in pathology retired from the Army as a colonel. The Public Health Service is doing research in the same area and could have used his background and skills to great advantage.

A trained meteorologist, a chief warrant officer, was retired at age 44, several years ago. The Weather Bureau could not employ him.

A mathematician, retired at 48 as a colonel, with two teenage children, had to seek employment outside the Government.

A mechanical engineer, retiring at 43 as a colonel, with a background in engineering research at Wright Air Development Center, had to seek employment in private aircraft firms.

An aeronautical engineer, retired as a lieutenant colonel at age 42, with a background in research and development, had to seek employ-

ment outside the Government. He had received his master's degree from the Air Institute of Technology—an Air Force school.

The Congress, the executive branch, and others concerned with the problems of dual compensation-dual employment have all been seeking a solution to these problems for a number of years.

James E. Webb, Administrator, National Aeronautics and Space Administration, during the hearings, cited several cases as typical problems being experienced by NASA in attempting to fill key position vacancies by employing retired military personnel competent and experienced in the aerospace field.

(1) A colonel recently retired from the U.S. Air Force after 23 years of military service including program management, commander of the test wing at Cape Canaveral during the critical Thor-Atlas period, and test commander at the Special Weapons Center. He was offered \$20,000 as an Assistant Director of NASA's Manned Spacecraft Center in Houston. However, he declined in favor of a \$27,000 position with Space Technology Laboratories in which position he would still be able to draw his \$7,000 military retirement. Mr. Walter Williams, our Deputy Director at Houston, believes the colonel would have accepted the NASA position if he could have retained all of his retired pay.

(2) A Navy captain presently on duty at NASA's Manned Spacecraft Center in Houston, as a branch chief, previously served as range operations officer at Point Mugu, Calif., and in space surveillance at Dahlgren, Va. His experience is appropriate to work in the development of our Apollo tracking network, including coordination with the Jet Propulsion Laboratory, the Goddard Space Flight Center, and military tracking systems. He has requested retirement from the Navy, and has indicated an interest in a position with NASA or any other Federal research and development agency. However, this captain will not consider a position unless it would be at the \$18,000 to \$20,000 level, in order to compensate in substantial measure for the loss of retired pay.

(3) An active duty Navy captain, presently on detail at NASA headquarters as a division director, has had 22 years of military service. He is considering retirement from the Navy and will be eligible to receive more than \$6,000 retirement pay, which he would have to waive under the existing laws if employed in NASA as a civilian at a similar level of responsibility. With his qualifications, his services would be sought by industry. While he would like to continue in the NASA program after retirement, he doubts that he could afford to accept the financial penalty.

Two U.S. Air Force colonels who are currently occupying key positions at our George C. Marshall Space Flight Center at Huntsville, Ala., are additional examples in this category.

(4) NASA has, in its employ at the present time, several senior retired Regular military personnel, one of whom is on the deputy associate administrator level, which is the highest level in the agency of general executives. These officers have served in industry at much higher combined industry and retired military pay than they are presently receiving at NASA. Like many civilian personnel in the higher executive brackets, they are willing to forego, for a while at least, the attraction of the higher salary of industry in exchange for the experience and the personal satisfaction of participating first

hand in the Nation's space program. However, NASA can expect to lose the services of some of these men after a period of time if they must continue to forfeit all or most of their retired pay. This financial penalty in some cases approaches one-half to two-thirds of their salary at NASA.

EXPLANATION OF THE BILL AS REPORTED

SHORT TITLE

The first section provides a short title for the proposed law—the "Dual Compensation Act."

TITLE I—DEFINITIONS

Section 101 defines the special terms used, most of which are based on the definitions used for the same words by section 101 of title 37, United States Code. The definition of "civilian office" is intended to cover employment in any civilian office or position in the Government of the United States or in the municipal government of the District of Columbia whether appointive, elective, under a personal service contract, or otherwise. Such term also covers employment in non-appropriated fund instrumentalities under the jurisdiction of the Armed Forces.

TITLE II—EMPLOYMENT OF RETIRED MEMBERS OF UNIFORMED SERVICES

Reduction in retired or retirement pay

Section 201(a) provides that a retired officer of any Regular component of the uniformed services who holds a civilian office shall receive the full compensation of the civilian office plus the first \$2,000 of his retired or retirement pay, plus one-half of the remainder, if any. The prohibition in section 2 of the act of July 31, 1894, as amended (5 U.S.C. 62), against such retired officers holding a civilian office is repealed by section 402(a)(7) of the bill.

Section 201(a) also provides that the \$2,000 shall be increased by appropriate percentages in direct proportion to each increase in such retired or retirement pay under section 1401a(b) of title 10, United States Code, to reflect changes in the Consumer Price Index. Thus, if the first increase under such section 1401a(b) amounts to 3 percent, such a retired officer thereafter will have his retirement or retired pay reduced to an annual rate equal to the first \$2,000 increased by 3 percent plus one-half the remainder and the next increase under such section 1401a(b) would be applied to the new base and any later increases applied accordingly.

Section 201(b) excepts from reduction in retired pay required by subsection (a) a retired officer of any Regular component of the uniformed services whose retirement was based on disability resulting from an injury or disease received in line of duty as a direct result of armed conflict or based on disability caused by an instrumentality of war and incurred in the line of duty during a period of war.

Section 201(c) excepts from the reduction in retired or retirement pay required by subsection (a) the first 30 days of a temporary, part-time, or intermittent appointment if serving under one appoint-

ment, or not to exceed a total of 30 days during any fiscal year in case the employee is serving under more than one appointment.

Section 201(d) provides a definition of "period for which he receives salary" for purposes of subsections (a) and (c) of section 201.

Section 201(e) authorizes the U.S. Civil Service Commission, subject to the supervision and control of the President, to prescribe regulations under which exceptions to subsection (a) may be made whenever it is determined by appropriate authority that exceptions are warranted on the basis of special or emergency employment needs which otherwise cannot readily be met. Authority to provide a means for exceptions from subsection (a) also is vested in the President of the Senate with respect to the U.S. Senate, the Speaker of the House with respect to the U.S. House of Representatives, and the Architect of the Capitol with respect to the Office of the Architect of the Capitol. Special authority is granted the Administrator of the National Aeronautics and Space Administration to exempt from such subsection (a) any individual in a scientific, engineering, or administrative position appointed pursuant to section 203(b)(2)(A) of the National Aeronautics and Space Act of 1958, as amended (42 U.S.C. 2473(b)(2)(A)), but not more than 30 such exemptions may exist at any one time.

Section 201(f) provides that a retired officer of any Regular component of the uniformed services who was employed in a civilian office on the day immediately preceding the effective date of the subsection may elect to remain subject to and continue under any applicable limitations on or exceptions to the amount of compensation to be received which were in effect prior to such effective date, or to be subject to the applicable limitations and exceptions contained in subsections (a), (b), (c), and (e) of section 201.

It is expected that very few Regular officers will be in a position to exercise this option because the only Regular officers serving in civilian positions at the present time are those serving in positions for which specific statutory exemptions have been granted from the dual office holding prohibitions of section 2 of the act of July 31, 1894, as amended (5 U.S.C. 62).

Reserve officers

Section 201(g) authorizes the retroactive exemption from the \$10,000 compensation restriction of section 212 of the act of June 30, 1932, as amended (5 U.S.C. 59a), for certain retired members who were serving in the Army or Air Force of the United States without component in a temporary grade higher than, or the same as, the Reserve commission then held who were retired in such grade for physical disability. The exemption will be retroactive and apply to each such person for any period following his retirement. The effect of the provision will be to require retroactive adjustment in retirement or retired pay and will overcome the recent decision of the Comptroller General involving these officers (B-136459, May 18, 1961).

Warrant officers

Section 201(h) will exempt a non-Regular member of any of the Armed Forces who served on active duty in a temporary warrant officer grade and who was retired in that status prior to the effective date prescribed by section 403(a) of the bill from the restriction in section 2 of the act of July 31, 1894; as amended (5 U.S.C. 62), for

any period following his retirement. This provision is designed to protect the civilian appointments of such retired warrant officers retroactively to the date of their appointment to civilian positions. This provision will overcome the holding of the Comptroller General's decision of April 2, 1963 (B-141989) that a retired temporary warrant officer is subject to the dual-office restriction contained in the act of July 31, 1894, and, therefore could not legally be appointed to a civilian office.

Reduction-in-force benefits

Section 202 of the bill amends section 12 of the Veterans Preference Act of 1944, as amended (5 U.S.C. 861), to restrict the retention rights in connection with reduction in force of certain civilian employees who are retired members of a uniformed service. Section 202 adds a new subsection (b) to such section 12 which will grant, for reduction-in-force purposes, an employee who is a retired member of any of the uniformed services a preferred status as a preference employee only if his retirement was based on disability resulting from injury or disease received in line of duty as a direct result of armed conflict or based on disability caused by an instrumentality of war and incurred in line of duty during a period of war. In addition, such an employee will be entitled to retain his veterans' preference status for reduction-in-force purposes if his military service does not include 20 or more years of full-time active service, or if, immediately prior to the effective date prescribed by section 403(a) of the bill, he was employed in a civilian office and, on or after such date, he continued to be employed in such office without a break in service of more than 30 days.

Section 202 of the bill also adds a new subsection (c) to section 12 of the Veterans Preference Act of 1944. The new subsection (c) reduces the military service that may be counted by employees for reduction-in-force purposes when the employee is a retired member of the uniformed services. The new subsection (c) will authorize the crediting of military service for reduction-in-force purposes by an employee who is a retired member of any of the uniformed services only for the length of time in active service in the Armed Forces during any war or in any campaign or expedition, or for the total length of time in active service in the Armed Forces, if the employee is covered by any one of the descriptions contained in clause (1), (2), or (3) of the new subsection (b) of section 202 discussed above. The counting of military service by employees who meet the requirements of the new subsection (c) is authorized, as heretofore, without regard to whether he is entitled to veterans' preference.

Crediting military service for annual leave purposes

Section 203 of the bill amends section 203(a) of the Annual and Sick Leave Act of 1951 to provide a more restrictive method of crediting active military service of a retired member of any of the uniformed services for annual leave accrual purposes. Under existing law, all service creditable under section 3 of the Civil Service Retirement Act for purposes of annuity may be counted in determining annual leave accruals (which are based on 13 days per year up to 3 years of service, 20 days after 3 years of service up to 15 years, and 26 days per year after 15 years of service). It is the current practice to count all military service for annual leave accrual purposes since all

military service is creditable under the Civil Service Retirement Act if the retiree waives his military retired pay.

The amendment to the Annual and Sick Leave Act of 1951 made by section 203 of the bill will permit a retired member of the uniformed services to count, for annual leave accrual purposes, only military service performed in the Armed Forces during any war or in any campaign or expedition for which a campaign badge has been authorized or all of his military service if his retirement is based on disability resulting from injury or disease received in line of duty as a direct result of armed conflict or based on disability caused by an instrumentality of war and incurred in line of duty during a period of war. The section also contains a savings clause to permit those now employed to continue counting all their military service.

Civilian employment procedures—Retired military personnel

Sections 204 and 205 establish safeguards which will assure that consideration of retired military personnel for civil service positions is accomplished on an equitable competitive basis and that there is strict compliance in spirit and in procedure with the fundamental merit system principle of open public competition. These sections are intended to do away with the so-called buddy system under which a position is created or held open at a military installation for a buddy about to retire from the military service. This undesirable practice has been recognized by officials of the Department of Defense and procedures to safeguard the merit system were set forth in memorandums issued by Deputy Secretary of Defense Roswell L. Gilpatric under dates of July 5, 1961, and October 30, 1962.

Section 204 of the bill writes into law the essence of the Gilpatric policy referred to above.

The provisions of subsection (a) of section 204 are intended to prohibit most appointments of retired military personnel to civilian positions in the Department of Defense during a period of 180 days immediately following their retirement. However, exceptions to the prohibition are permissible if (1) the proposed appointment is authorized by the Secretary concerned or his designee for the purpose and, if the civilian office is in the competitive civil service, after approved by the U.S. Civil Service Commission; or (2) higher minimum rates have been established for the civilian office under section 504 of the Federal Salary Reform Act of 1962; or (3) a state of national emergency exists.

The provisions of subsection (b) of section 204 specify in detail the information which must accompany a request for the authorization or a request for the authorization and approval, as the case may be, required by subsection (a)(1) of section 204.

Section 205 requires that before a retired member of any of the uniformed services may be appointed to a civilian office in the competitive civil service of any agency in the executive branch there must be public notice that a vacancy exists and that an assembled examination, where practicable, open to all persons, is to be given. Also, the vacancy may be filled only from among those qualified persons who successfully complete such examination.

The provisions of this section do not apply to appointments to the 30 positions of National Aeronautics and Space Administration referred to in section 201(e) of the bill.

Report

Section 206 requires the President to transmit to the Congress on or before January 1, 1966, a comprehensive report of the operations of the departments and agencies in the executive branch under title II of the bill.

It is expected that the report will contain sufficient information to permit the appropriate committees of the Congress to review the utilization of the new dual-employment and dual-compensation system established by the bill and to review particularly any adverse effects resulting from the repeal of the dual office holding restrictions of section 2 of the act of July 31, 1894, as amended (5 U.S.C. 62).

Employment in more than one civilian office

The provisions of section 301 of the bill deal solely with the employment of civilian personnel in more than one civilian office.

Subsection (a) of section 301 will prohibit Government civilian personnel generally from receiving basic compensation from more than one civilian office (as defined in section 101(3) of the bill) for more than an aggregate of 40 hours of work in any calendar week (Sunday through Saturday). The provisions do not prohibit an employee from having a combination of part-time positions collectively equal to an aggregate of 40 hours of work in any calendar week.

The prohibition is on the receipt of basic compensation and will not affect the receipt of otherwise properly earned overtime compensation for work in one position in excess of the hours required for overtime compensation.

Subsection (b) of section 301 authorizes the U.S. Civil Service Commission, subject to the supervision and control of the President, to prescribe regulations under which exceptions to subsection (a) of such section may be made whenever it is determined by appropriate authority that exceptions are warranted on the ground that personal services otherwise cannot be readily obtained.

Subsection (c) of section 301 vests authority to provide a means for exceptions to subsection (a) of such section in the President of the Senate with respect to the U.S. Senate, the Speaker of the House with respect to the U.S. House of Representatives, and the Architect of the Capitol with respect to the Office of the Architect of the Capitol.

Subsection (d) of section 301 provides that subsection (a) of such section does not apply to the receipt of compensation in unusual situations which Congress previously has found deserve special treatment, or which were the subject of decisions by the Comptroller General.

Paragraph (1) excepts compensation on a when-actually-employed basis received from more than one consultant or expert position if such compensation is not received for the same hours of the same day.

Paragraph (2) excepts compensation consisting of fees paid on other than a time basis.

Paragraph (3) excepts compensation received by teachers of the public schools of the District of Columbia for employment in a civilian office during the summer vacation period.

Paragraph (4) excepts compensation paid by the Tennessee Valley Authority to employees performing certain part-time or intermittent work in addition to their normal duties when the Authority deems it to be in the interest of efficiency and economy.

Paragraph (5) excepts compensation paid by the U.S. Guard to employees occupying part-time positions of lamplighters.

Paragraph (6) excepts compensation within the purview of provisions of nine laws, each of which are amended by section 401(i)-(q) of the bill to provide exceptions from section 301.

Subsection (e) is a savings provision permitting civilian personnel serving on the effective date of section 301 in more than one position under properly authorized appointments to continue to serve under such appointments and to receive the compensation from such offices without regard to subsection (a) for the duration of the appointment or appointments.

Miscellaneous provisions

Subsections (a) through (h) of section 401 of the bill amend provisions of various laws to eliminate reference to section 212 of the act of June 30, 1932, as amended (5 U.S.C. 59a), which is repealed by section 402(a)(20) of the bill and to insert in lieu thereof reference to section 201 of the bill, that is, section 201 of the new Dual Compensation Act. Thus, Regular officers who may be appointed to the civilian offices covered by such laws will have their retired pay reduced under the provisions of section 201 of the bill, if applicable.

Subsection (a) relates to a member of the Boxing Commission of the District of Columbia (D.C. Code, sec. 3-1226).

Subsection (b) relates to the Office of Civil Defense in the District of Columbia (D.C. Code, sec. 6-1202).

Subsection (c) relates to service as a member of the Peace Corps National Advisory Council (22 U.S.C. 2512(b)).

Subsection (d) relates to certain consultants, members of advising boards, and other persons of the Arms Control and Disarmament Agency (22 U.S.C. 2584).

Subsection (e) relates to retired officers appointed to positions authorized under the Foreign Assistance Act of 1961 (22 U.S.C. 2386(b)).

Subsection (f) relates to the Chairman of the Military Liaison Committee under the Atomic Energy Act of 1954 (42 U.S.C. 2038).

Subsection (g) relates to the Chairman of the Liaison Committee under the National Aeronautics and Space Act of 1958 (42 U.S.C. 2474(d)).

Subsection (h) relates to the members of the U.S. Study Commission on the Savannah, Altamaha, St. Marys, Apalachicola-Chattahoochee, and Perdido-Escambia River Basins and intervening areas (Public Law 85-850).

Subsections (i) through (q) of section 401 amend provisions of various laws to eliminate reference to section 2 of the act of July 31, 1894, as amended (5 U.S.C. 62), and section 6 of the act of May 10, 1916, as amended (5 U.S.C. 58 and 59), relating to dual employment and dual compensation and to insert reference to section 301 of the bill, that is, section 301 of the New Dual Compensation Act.

Subsection (i) relates to public school teachers of District of Columbia employed as teachers of night schools and vacation schools (D.C. Code, sec. 31-631a).

Subsection (j) relates to certain employees of Library of Congress (2 U.S.C. 162; 5 U.S.C. 60),

Subsection (k) relates to custodial employees of the District of Columbia Board of Education when such employees are performing

work in school buildings being used for nonrecreational official purposes by a Federal agency or department of the District of Columbia government (D.C. Code, sec. 31-631a).

Subsection (l) relates to crews of vessels under the Secretary of Commerce when assigned duties as instrument observer or recorder and to Federal employees while observing tides or currents, or tending seismograph or magnetographs (33 U.S.C. 873).

Subsection (m) relates to employees conducting meteorological investigations in the Arctic region (15 U.S.C. 327).

Subsection (n) relates to Department of Defense oversea teachers employed in another position during the school recess period (5 U.S.C. 2358(b)).

Subsection (o) relates to public school teachers of the Canal Zone who also are employed in night or vacation schools (sec. 102, ch. 7, title 2, Canal Zone Code).

Subsection (p) relates to Federal employees performing fieldwork of the Census Bureau in addition to their regular duties (13 U.S.C. 23(b)).

Subsection (q) relates to dual employment of employees in the postal service (39 U.S.C. 3335).

REPEALS

Section 402 (a) repeals 38 provisions of law relating to dual employment or dual compensation or which are now obsolete, including the three major laws on these subjects, namely: (1) Section 2 of the act of July 31, 1894, as amended (5 U.S.C. 62), relating to the holding of two offices; (2) section 6 of the act of May 10, 1916 (5 U.S.C. 58), relating to double salaries; and (3) section 212 of the act of June 30, 1932, as amended (5 U.S.C. 59a), relating to the limitation of \$10,000 on the amount of retired pay received for commissioned officer service when combined with Government civilian salary.

Subsection (b) of section 402 contains provisions repealing all other law, general or specific, not repealed by subsection (a) and inconsistent with the provisions of this legislation.

EFFECTIVE DATES

Section 403 established an effective date as the first day of the first month which begins later than the 90th day following the date of enactment of the bill, except for sections 201(g) and 201(h), which shall become effective upon enactment.

The latter two sections relate to Reserve officers and warrant officers.

Section 404 provides that if any provision of this legislation shall be held invalid, the remaining provisions shall not be affected.

COST

The committee was unable to obtain any specific cost information on the amount of overpayments proposed to be waived by subsections (g) and (h) of section 201 of the bill in the cases of certain Reserve officers and warrant officers. Nor is it possible to estimate any additional cost that might be incurred by removal of the \$10,000 dual-compensation limitation of the act of June 30, 1932, in the case of those few remaining officers who have been exempted specifically

from the dual-office restriction of the act of July 31, 1894, but not from such \$10,000 limitation.

The committee believes it to be a fair statement to say that the payment of the full amount of compensation for an individual who holds a civilian position does not result in additional cost to the Government by reason of the fact that the occupant happens to be a military retiree, whether Reserve or Regular or officer or enlisted man.

VIEWS OF THE EXECUTIVE BRANCH AND AGENCY REPORTS

The special message from the U.S. Civil Service Commission dated June 25, 1963, report dated August 1, 1963, from the National Aeronautics and Space Administration, and report dated July 15, 1963, from the Comptroller General of the United States are as follows:

U.S. CIVIL SERVICE COMMISSION,
Washington, D.C., June 25, 1963.

Hon. JOHN W. McCORMACK,
Speaker of the House of Representatives.

DEAR MR. SPEAKER: The Civil Service Commission is submitting for the consideration of the Congress a draft of a proposed bill to simplify, modernize, and consolidate the laws relating to the employment of civilians in more than one position and the laws concerning the civilian employment of retired members of the uniformed services, and for other purposes. Also enclosed are a section analysis of the draft proposed bill and a statement of purpose and justification.

Existing statutes on the civilian employment of retired military personnel and the dual employment of civilians are generally agreed to be harmful, obsolete, unfair, confusing, and difficult to administer. They are harmful, because for example, they deprive the Government of the services of certain highly trained retired military personnel whose technical skills, frequently acquired at Government expense, are in short supply and are needed in Federal agencies. Their obsolete nature is indicated by the fact that one law, enacted in 1894, was intended originally as a limitation on combined pension and salary but now serves to bar absolutely certain retired military personnel from almost all Government employment. The statutes are unfair, confusing, and difficult to administer in that some categories of retired military personnel may not be employed at all; some may be employed subject to a \$10,000 limitation on receipt of combined civilian salary and retired pay; and some may be employed in any agency without any limitation on combined compensation. Further complicating the picture is the fact that it is often difficult to determine into which category an individual falls, leading to many Comptroller General decisions. Another factor is that a few agencies have been granted exceptions to parts of the law and may employ any person retired from the military service.

The Commission also receives many complaints from employee organizations and civil service employees concerning the advantages possessed by retired military personnel in reductions in force. Some of these complaints are received directly; many are received through Congressmen on behalf of the people they represent.

The problems in administering the laws on civilian employment of retired personnel are further reflected in the introduction in the Congress each year of private bills to relieve employees of debts owed to the United States and incurred by overpayment of military retired pay or civilian salary. The overpayments result from understandable errors in the interpretation of the more than 40 separate provisions of law and the 200-plus Comptroller General decisions which seek to interpret this tangle of statutes.

The proposed legislation would accomplish these things: First, it would help the Government to obtain the best qualified people available to fill certain of its hard-to-fill civilian positions. We can no longer afford to exclude from consideration for employment retired military personnel who have the highly technical knowledges and skills which are in demand. Second, the draft bill would provide fairer treatment of all categories of retired military personnel. Third, the proposed legislation would provide reasonable safeguards so that the employment of retired military personnel would not unfairly hamper career opportunities for present civilian personnel. Fourth, the bill would consolidate and simplify the present numerous and confusing statutes on dual compensation and dual employment.

The problems involved in the employment of retired military personnel and the dual employment of civilians in the Federal service have been frequently studied over the past several years by congressional committees and individual Members of Congress, the Civil Service Commission, and other interested Federal agencies. These studies have been extremely helpful in clarifying the issues involved. We believe the enclosed proposed draft bill treats these issues in a manner which is fair to all individuals concerned and best serves the public interest.

An almost identical proposal was introduced in the 87th Congress as H.R. 12721 at the Commission's request but no action was taken thereon. The current proposal differs substantively from H.R. 12721 in the following respects:

(1) H.R. 12721 contained an exemption from the bill's provisions for retired military members whose retirement was based on disability "incurred in combat with an enemy of the United States." This exemption has been changed in the current proposal to include those retired members whose disability results "from an injury or disease received in line of duty as a direct result of armed conflict." This change would extend the exemption to those disabled in the kind of cold-war conflicts in which American military personnel are now engaged.

(2) Section 103 of H.R. 12721 contained amendments to the Veterans' Preference Act which would restrict the veterans' preference benefits to which retired military personnel would be entitled. In the current proposal a provision has been added to these amendments which would reserve veterans' preference for reservists who become eligible for military retirement at age 60 subsequent to their employment in the Federal service.

(3) The provisions of section 303(c) of H.R. 12721, which related to deductions under the retired serviceman's family protection plan, have not been included in the current proposal. It has been determined that deletion of these provisions will result in more consistent treatment of persons covered by the bill.

(4) A provision (section 102(g)) has been included in the current proposal to grant retroactive legislative relief to a number of retired temporary warrant officers who, under a recent decision of the Comptroller General, have been found to be employed in the Federal service in violation of the restrictions of the Dual Office Holding Act of 1894.

The Bureau of the Budget advises that from the standpoint of the administration's program there is no objection to the submission of this proposed legislation for the consideration of the Congress.

A similar letter is being sent to the President of the Senate.

By direction of the Commission:

Sincerely yours,

JOHN W. MACY, Jr., *Chairman.*

DUAL COMPENSATION ACT OF 1963

Legislative Proposal To Simplify, Modernize, and Consolidate the Laws Relating to the Employment of Civilians in More Than One Position and the Laws Concerning the Civilian Employment of Retired Members of the Uniformed Services, and for Other Purposes

PURPOSE

1. To authorize the employment of retired military personnel, and to permit such personnel to receive full civilian pay but to limit retired pay to the first \$2,000 of such retired pay plus one-half of the remainder, if any. The President would be given the authority to grant exceptions to this limitation on combined compensation if it is determined such exceptions are to be necessary in order to meet special or emergency Government employment needs.

2. To authorize a "fresh start" principal with respect to retired military personnel who accept Federal civilian employment. With the exception of those whose retirement is based on disability as a result of armed conflict, or caused by an instrumentality of war in time of war, and of those whose retired pay is based on less than 6 years of continuous full-time active duty, retired military personnel would not receive veterans' preference nor would their military time count in computing leave, retirement, or reduction-in-force retention credits.

3. To continue the policies of exempting certain military personnel disabled in line of duty from the restrictions on employment of retired military personnel. Those retiring with less than 6 years of continuous active duty would also be exempted.

4. To limit civilian employees in the Federal Government to compensation for one full-time position, unless an exception to this restriction is granted by the Civil Service Commission on the basis of Government employment needs.

5. To make uniform, simplify, and consolidate in one law all statutory provisions relating to the Federal civilian employment of retired military personnel and the dual employment of Federal civilian employees.

JUSTIFICATION

Current situation

There are a considerable number of statutes relating to the dual employment and dual compensation of Federal civilian and retired military personnel. The earliest of these was enacted in 1894; the most recent, in 1961. These statutes are complicated; some are overlapping, some are inconsistent, and a number are no longer realistic in the light of current conditions. Because the basic statutes arbitrarily restrict employment and are out of date, many special exceptions have been sought and granted.

The basic intent of the early dual employment and dual compensation laws was not to prohibit entirely the dual employment of civilian employees or the hiring of retired military personnel. The purpose was primarily to limit such employment to a reasonable extent—reasonable from the points of view of both the Government and the employee. When the present dollar limits were set many years ago, they represented a reasonable annual income for one person; however, because of the differences between today's salary levels and living costs and those of 60 (or even 20) years ago, the restrictions now serve as a bar rather than a limitation. Thus, the present effect of the basic statutes differs markedly from that originally intended.

A second consequence of the rigid limits in the basic laws has been the enactment, over the years, of legislation to meet one special situation or another. While many of these statutes are identified as exceptions to the basic restrictions, they are not necessarily inconsistent with the original purpose of the Congress, which, as mentioned earlier, was to permit dual employment within reasonable limits. The cumulative effect of these various acts of Congress, however, is a body of law that fails to provide a consistent policy for the employment of Federal civilian personnel in more than one capacity or for the hiring of retired military personnel.

Employment of retired military personnel

The present restrictions on the employment of retired military personnel in civilian positions are inconsistent and inequitable and have no relation to the Government's hiring needs. Various categories of military retirees are exempted from the prohibitions and restrictions. All enlisted men, certain commissioned officers, and some warrant officers retired from military service may now be hired for Federal civilian jobs without restriction on the receipt of retired pay. At present, certain Regular officers and warrant officers retired for age or length of service are the only retirees who cannot hold Federal positions if either their retired pay or the salary of the position is \$2,500 a year or more. Disabled Regular officers whose disability was not incurred in combat or caused by an instrumentality of war in time of war are limited to a maximum combined rate of \$10,000 a year for Federal civilian salary and military retired pay.

Among the retired officers still subject to restrictions are many who possess special skills that are particularly valuable to the Government. Under present law, these skills, often developed at Government expense, are available and attracted to private industry but not to the Federal civil service.

The need for revision of the present restrictions is of long standing and has been widely recognized in both the legislative and executive

branches. In his last budget message to the Congress, President Eisenhower included this statement:

A number of outmoded and inconsistent statutes now regulate the employment and compensation of retired military personnel in civilian positions with the Government. We should replace this legal maze with a single rational statute which would eliminate unnecessary dual payments, adequately safeguard the civilian career service, and permit the Government to hire members of this group possessing needed skills under conditions that are fair to the individual.

The Subcommittee on National Policy Machinery of the Senate Committee on Government Operations in its report of February 28, 1961, on organizing for national security stated:

"An enormous Government investment has been poured into the training and experience of an outstanding retired military officer. In the present state of national need, this investment cannot be permitted to be thrown away. The dual compensation laws should be reviewed and amended."

Dual employment of civilians

The present restrictions on dual civilian employment also hamper effective Government manpower utilization. The Postmaster General may employ for postal duties, in addition to their regular duties, custodial employees who are under the jurisdiction of the General Services Administration at Federal buildings occupied in any part by the postal service, but he is prohibited from hiring other employees of other agencies for part-time work during the Christmas rush. The Agriculture and Interior Departments cannot hire critically needed and available Federal employees as emergency firefighters. These are avoidable difficulties that should be eliminated.

Problems in administering present laws

Administrative difficulties under the present laws impede efficient Government management. The complexity of the statutes make economy of administration impossible. Agencies encounter continual problems in their efforts to make sure that existing restrictions are observed. The cost involved in attempting to reconcile the various statutes as applied to specific cases is known to be large, even though it cannot be accurately estimated for any given period of time. Numerous decisions of the Comptroller General have been required. Appointing, payroll, certifying, and disbursing officers must be conversant with a large body of highly complicated law.

Injustices to individuals have also occurred because of misinformation and erroneous conceptions of what the law requires. Private bills have been introduced in Congress to relieve cases of unusual hardship that have resulted from such situations.

At the present time, a situation exists where it may be necessary because of recent legal decisions, unless legislative relief is obtained, retroactively to subject approximately 500 retired commissioned Army of the United States officers and an unknown number of retired commissioned Air Force officers to the dual compensation restrictions of section 12 of the Economy Act of 1932. Similarly, under a recent Comptroller General decision, a number of retired temporary warrant

officers have been found to be serving the Federal civilian positions in violation of the Dual Office Holding Act of 1894.

SUMMARY

Thus, the current situation is that the dual compensation-dual employment laws are inequitable, are difficult to administer, and prevent the Government from obtaining certain well-qualified personnel for hard-to-fill positions.

PROPOSED LEGISLATION

Employment of retired military personnel

The proposed law would repeal the statutory provisions which, in effect, prohibit certain categories of retired Regular officers from holding a Federal civilian job. The policy, expressed in several statutes, of limiting the amount of combined income from military retirement and civilian pay would be continued but would be modified to establish consistent treatment for all the various categories of retired military personnel. Limitations on combined compensation would be reasonable in terms of present salary levels and dollar values.

The proposed law would also establish a "fresh start" principle for retired military personnel employed in Federal civilian jobs. Since persons retiring from the military service have generally realized retirement benefits based on a military career, it seems desirable and equitable for them to start Federal civilian careers on the same basis as others who are also entering the civil service for the first time. Therefore, the bill would (a) require that their prior military service not be counted in computing length of service for reduction-in-force, leave, and retirement purposes, and (b) withhold veterans' preference. The purpose of the Veterans' Preference Act of 1944 was primarily to provide preference for civil service employment to those veterans who had interrupted their regular civilian careers to enter military service during time of war.

The proposed law would continue the principle of treating separately those retired military personnel whose retirement was based on disability resulting from an injury or disease received in line of duty as a direct result of armed conflict, or caused by an instrumentality of war and incurred in line of duty during a period of war. Such persons would not be subject to the limitations on combined compensation, would continue to receive veterans' preference, and would continue to receive credit for length of military service in computation of retention credits for reduction-in-force purposes. Similar treatment would be accorded retired military personnel who retire with less than 6 years of continuous full-time active duty. Such persons are typically (1) those whose military careers were cut short because of physical disability, or (2) those who were in the military service during a time of emergency and who continued to participate in the Reserve program after they returned to civilian life.

In view of the fact that there are certain occupations for which it is difficult to obtain well-qualified personnel, the proposed law would give the President authority to grant exceptions to the above-mentioned limitations on combined compensation. Exceptions could also be granted to meet emergency situations.

Those retired military personnel who are already employed in the Federal service would retain their present rights with regard to veterans' preference and credit for military service. They could elect either to remain subject to the present limitations on compensation or to come under the provisions of the proposed law.

The bill would also provide relief to a large number of retired commissioned and warrant officers holding temporary appointments in the Army and Air Force of the United States who are faced with the possibility of returning to the Government overpayments of military retired pay or civilian salary required by recent decisions that such retired members should have been considered subject to the restrictions (1) prescribed by section 212 of the Economy Act of 1932, in the case of the retired commissioned officers, and (2) prescribed in the act of July 31, 1894, in the case of the retired warrant officers.

It is recognized that there are some controversial issues involved in the employment of retired military personnel in Federal civilian positions. Some people maintain that a retired military person has earned his military retirement pay as a result of his military service; therefore, if he is employed by the Government in a civilian capacity he is entitled to both his full military retirement pay and the regular civilian pay for the position. Others believe that no person should receive retired pay and regular pay from a single employer at the same time. The proposed bill represents what seems to be a reasonable middle ground between these two points of view, by providing that \$2,000 of the retired pay, the approximate average nondisability retired pay received by enlisted personnel, plus one-half of the remainder, may be paid along with the regular pay for the civilian position.

This restriction on combined compensation would apply to most retired military personnel, including a number of categories to which no such restrictions now apply, but not to those whose retirement is based on disability resulting from armed conflict, or caused by an instrumentality of war in time of war, or to those whose retired pay is based on less than 6 years of continuous full-time active duty.

Some people also maintain that retired military personnel have an unfair advantage over other civilian employees in a reduction in force by reason of veterans' preference eligibility and credit for years of military service. This advantage had been eliminated by the "fresh start" principle explained above.

Dual employment of civilians

Those portions of the bill which deal with employment of civilian employees in more than one position may be less controversial but are no less important. The proposed law would limit civilian employees to one full-time job; part-time employees would be limited to a combination of part-time positions equaling one full-time position. The Commission would be authorized to grant exceptions to these restrictions when the Government could not otherwise readily obtain the needed services. This authority to grant exceptions would be used to meet situations of the kind which now have to be excepted by statute. An example is the exception, granted by law, which permits District of Columbia teachers to accept additional compensation for services rendered in connection with the operation of night schools in the public schools of the District of Columbia.

Summary

In summary, the proposed legislation would make an important source of skilled manpower available to the Government, would eliminate inequities in the treatment of retired military personnel, and would provide a single modern statute in place of a collection of overlapping and outdated laws.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION,
Washington, D.C., August 1, 1963.

HON. TOM MURRAY,
Chairman, Committee on Post Office and Civil Service,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This replies to your request for the views of the National Aeronautics and Space Administration on the bill, H.R. 7381, to simplify, modernize, and consolidate the laws relating to the employment of civilians in more than one position and the laws concerning the civilian employment of retired members of the uniformed services, and for other purposes. The bill is identical with a draft submitted to the Congress under date of June 25, 1963, by the U.S. Civil Service Commission.

The Civil Service Commission, in its submission to the Congress, summarized the purpose of the bill as follows:

1. To authorize the employment of retired military personnel, and to permit such personnel to receive full civilian pay but to limit retired pay to the first \$2,000 of such retired pay plus one-half of the remainder, if any. The President would be given the authority to grant exceptions to this limitation on combined compensation if it is determined such exceptions are to be necessary in order to meet special or emergency Government employment needs.

2. To authorize a fresh-start principle with respect to retired military personnel who accept Federal civilian employment. With the exception of those whose retirement is based on disability as a result of armed conflict, or caused by an instrumentality of war in time of war, and of those whose retired pay is based on less than 6 years of continuous full-time active duty, retired military personnel would not receive veterans' preference nor would their military time count in computing leave, retirement, or reduction-in-force retention credits.

3. To continue the policies of exempting certain military personnel disabled in line of duty from the restrictions on employment of retired military personnel. Those retiring with less than 6 years of continuous active duty would also be exempted.

4. To limit civilian employees in the Federal Government to compensation for one full-time position, unless an exception to this restriction is granted by the Civil Service Commission on the basis of Government employment needs.

5. To make uniform, simplify, and consolidate in one law all statutory provisions relating to the Federal civilian employment of retired military personnel and the dual employment of Federal civilian employees.

The National Aeronautics and Space Administration is strongly of the opinion that the proposed legislation should be enacted (1) to

permit the Government to capitalize on certain skills, competence, and experience in the area of space science and technology of a sizable group of military personnel who have completed their service careers, (2) to correct inequities in the treatment of such personnel, and (3) to provide a single modern statute in place of a number of existing obsolete and confusing statutes. In particular, this legislation is needed to make available to NASA and other Federal agencies those retired military officers who possess abilities, skills and knowledge which are in short supply, and who are needed in civilian Government positions.

Many of the abilities and skills and much of the knowledge which are valuable to NASA are possessed only by certain military officers who have been closely associated with missile, rocket, and other space developments. A sizable number of these officers have been detailed to NASA while on active duty and have held important line positions in the NASA organization for periods of 2 or more years. However, since military officers are well aware of the dual-compensation statutory restrictions, they usually accept employment in private industry, where their services are in demand, when they retire from the military service. Collectively, this body of men, technically educated and skilled in aerospace research technology, represents a reservoir of knowledge and experience which constitutes a national asset of inestimable value. Unless a major segment of this limited group of specialists can be attracted to remain in the Government's space program, this asset will be dissipated and lost. On the other hand, by removing the financial penalty now imposed, many of this group will elect to continue in the space program and their skills and technical knowledge will not only be kept from dissipating but will be nurtured and enhanced.

While NASA is exempt from the dual-employment restrictions, our employees are subject to the dual-compensation statutes. Thus, one of the main decisions to be made by a retired military officer who is considering employment with NASA is whether he is willing to waive his military retirement pay, and thus accept a substantial financial penalty as compared to industrial employment, in order to continue to serve the Government.

Waiver of military retirement pay involves a significantly large annuity, particularly in the case of the higher level military officers who could be valuable assets to NASA's management team. The following cases are offered as examples. They bring into focus the significance of the loss of military retired pay:

(a) A colonel recently retired from the USAF; 23 years of military service in program management; 4 to 5 years as commander, test wing at Cape Canaveral during critical Thor-Atlas period; test commander at the Special Weapons Center. He was offered \$20,000 as an Assistant Director at the Manned Spacecraft Center, Houston, Tex. However, he declined in favor of a \$27,000 position with space technology laboratories, in which position he would still be able to draw his \$7,000 military retirement. Mr. Walter Williams of the Manned Spacecraft Center feels that the colonel would have accepted the NASA position if he could have retained all his retired pay.

(b) A U.S. Navy captain presently on military detail at the Manned Spacecraft Center as a branch chief (GS-15 position); served as range operations officer at Point Mugu, Calif.; served in

space surveillance, Dulhgren, Va.; experience appropriate to work in development of Apollo tracking network, including coordination with Jet Propulsion Laboratory, Goddard Space Flight Center, and military tracking systems. He has requested retirement from the Navy, and has indicated an interest in a position with NASA or any other Federal research and development agency. However, he would not consider such a position unless it was at the \$18,000 to \$20,000 level, in order to compensate for the loss of retired pay.

(c) A U.S. Navy captain presently on military detail at NASA headquarters as a division director; 23 years of military service. He is considering retirement from the Navy, and will be eligible for over \$6,000 retired pay, which he would have to waive if employed as a civilian in the Federal civil service under present restrictions.

(d) A retired U.S. Navy admiral presently employed in a top level administrative position in NASA. He is entitled to \$15,300 military retired pay, but was required to waive all except approximately \$750.

It should be remembered that the above represent only a few examples. As stated above, many officers because of their own knowledge of existing statutes regarding dual compensation do not apply to NASA or other Government agencies for employment. It is our opinion that this bill would increase the number of officers willing to accept further Government service in these particular shortage areas of aerospace technology at key project and program direction levels.

For the foregoing reasons, the National Aeronautics and Space Administration favors the enactment of H.R. 7381. The Bureau of the Budget has advised that there is no objection to the presentation of this report from the standpoint of the administration's program.

Thank you for your invitation to appear before the committee at 10 a.m., Tuesday, August 6, 1963. I will be most happy to be present to discuss this legislation with the committee.

Sincerely yours,

JAMES E. WEBB, *Administrator.*

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, July 15, 1963.

B-29000.

B-91556.

Hon. TOM MURRAY,
*Chairman, Committee on Post Office and Civil Service,
House of Representatives.*

DEAR MR. CHAIRMAN: Your letter of June 28, 1963, acknowledged July 5, requests our report upon an executive communication from the Chairman of the Civil Service Commission to the Speaker of the House of Representatives, submitting a draft of a proposed bill to simplify, modernize, and consolidate the laws relating to the employment of civilians in more than one position and the laws concerning the civilian employment of retired members of the uniformed services and for other purposes. On July 2 the Commission's bill was introduced by you as H.R. 7381. For convenience our comments will be addressed to the provisions of H.R. 7381.

H.R. 7381 is substantially the same as H.R. 12721, 87th Congress, upon which we submitted a report to your committee on December 7,

1962 (B-29000, B-19556). In that report we recognized that there is a need for a general revision of the existing statutory restrictions relating to the employment of retired military personnel in Federal civilian positions, since existing statutory restrictions are outmoded, unrealistic, inequitable, and in certain cases operate to impede the Government's procurement of the highly specialized skills and experience of certain retired military personnel. Similarly, we recognized in such report that the present limitation of \$2,000 per annum upon the concurrent receipt of more than one civilian salary and the \$2,500 dual-office limitation are outmoded and unrealistic.

In general, the bill would repeal existing statutory restrictions relating to dual employment and double compensation. The most important restrictions appear in section 2 of the act of July 31, 1894, as amended, 5 U.S.C. 62, precluding a person who holds an office the salary or annual compensation attached to which amounts to the sum of \$2,500 or more from holding any other office to which compensation is attached; section 212 of the act of June 30, 1932, as amended, 5 U.S.C. 59a, which places a limit of \$10,000 per annum upon the aggregate civilian compensation and retired pay for or on account of services as a commissioned officer that may be received in any year; and section 6 of the act of May 10, 1916, as amended, 5 U.S.C. 58, which provides that no money appropriated by any act shall be available for payment to any person receiving more than one salary when the combined amount of said salaries exceeds the sum of \$2,000 per annum. In their stead the bill would provide a single restriction relating to civilian employment of retired military personnel, and a single restriction relating to concurrent employment in two or more civilian positions.

The section designated "12" on line 20, page 2, should be designated as "102" and hereafter will be referred to as section "102." Section 102 of the bill provides, subject to certain enumerated exceptions, that a retired member of a uniformed service is entitled to hold a civilian position and receive the full pay of such position. In addition, he is entitled to receive the first \$2,000 of his retired pay plus one-half of that portion of his retired pay in excess of \$2,000 per annum. In general, section 201 of the bill would allow a civilian employee to receive compensation from more than one civilian position provided the basic number of hours worked in all such positions does not exceed 40 hours in any calendar week. The Civil Service Commission is authorized to issue regulations relaxing such restriction when it determines that needed services cannot otherwise be readily obtained. In our opinion the bill is a substantial improvement over existing law.

The term "civilian office" as defined in section 101(c) neither expressly includes nor excludes positions under armed services post exchanges and other nonappropriated fund activities. However, we doubt that such positions may be regarded as "in the U.S. Government" within the meaning of the definition. In the absence of a clear expression of legislative intent to the contrary, we would not construe the bill as applying to employees of such activities.

We note that section 102(a) does not prescribe the procedure to be followed in applying the "annual rate" limitation on retired pay when the period to which the limitation applies is less than a year. There-

fore, in our opinion, the monthly or daily equivalent of the "annual rate" limitation under the proposed legislation would be determined in accordance with the usual rules for computing a fractional year's pay as set forth in the act of June 30, 1906 (34 Stat. 763, 5 U.S.C. 84), and as construed by numerous decisions of our office.

Clause (2) of section 102(b) exempts from the restrictions contained in section 102(a) a retired member whose retired pay is "based on less than 6 years of continuous full-time active service."

There is no existing law authorizing retirement based upon less than 6 years of continuous full-time active service, and we have some doubt concerning the precise scope of the exemption. However, in the absence of clarification we would interpret clause (2) as exempting from the restrictions contained in section 102(a) any retired member whose retired pay is not based upon a continuous period of full-time active service for as long as 6 years, even though in aggregate such retired member may have many more than 6 years of full-time active service. If your intent in the matter is otherwise, we suggest that it be clarified either in the language of the bill itself or in your committee's report. We assume that it is intended that the language "based on less than 6 years of continuous full-time active service" be accorded the same meaning in the other places that it appears in the bill—sections 103 and 104.

We note also that the language appearing in section 102(g) was not included in H.R. 12721, 87th Congress. We understand that such language is designed to perfect the civilian appointments of the retired warrant officers to whom it applies retroactively to the date such appointments were made. This provision would overcome the holding in our decision of April 12, 1963, B-141989, that a retired temporary warrant officer is subject to the dual-office restriction contained in the act of July 31, 1894, as amended, 5 U.S.C. 62.

The Civil Service Commission is authorized to make exceptions to the 40-hour-work-per-week limitation contained in section 201 whenever it determines that services cannot otherwise be readily obtained. So far as employees of the Senate and House of Representatives or of the individual members thereof are concerned, you may wish to vest the responsibility for granting exceptions to the limitation in section 201 in some authority or authorities in the Senate and the House of Representatives, respectively, rather than the Civil Service Commission. Also, you may wish to grant similar responsibility to some authority in the judicial branch insofar as employees of U.S. judges are concerned.

Certain other matters of a technical nature have been brought informally to the attention of your committee staff which we understand presently is according consideration to such matters.

Sincerely yours,

JOSEPH CAMPBELL,
Comptroller General of the United States.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill (H.R. 7381), as reported, are shown as follows (existing law proposed to be

omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

**SECTION 12 OF THE VETERANS' PREFERENCE ACT OF 1944
(5 U.S.C. 861)**

SEC. 12. (a) In any reduction in personnel in any civilian service of any Federal agency, competing employees shall be released in accordance with Civil Service Commission regulations which shall give due effect to tenure of employment, military preference (*subject to subsection (b) of this section*), length of service, and efficiency ratings: *Provided, That, subject to subsection (c) of this section*, the length of time spent in active service in the armed forces of the United States of each such employee shall be credited in computing length of total service: *Provided further*, That preference employees whose efficiency ratings are "good" or better shall be retained in preference to all other competing employees and that preference employees whose efficiency ratings are below "good" shall be retained in preference to competing nonpreference employees who have equal or lower efficiency ratings: *And provided further*, That when any or all of the functions of any agency are transferred to, or when any agency is replaced by, some other agency, or agencies, all preference employees in the function or functions transferred or in the agency which is replaced by some other agency shall first be transferred to the replacing agency, or agencies, for employment in positions for which they are qualified, before such agency, or agencies, shall appoint additional employees from any other source for such positions.

(b) *Notwithstanding any other provision of this Act, an employee who is a retired member of any of the uniformed services included under section 2 of this Act shall be considered a preference employee for the purposes of subsection (a) of this section only if—*

(1) *his retirement was based on disability (A) resulting from injury or disease received in line of duty as a direct result of armed conflict or (B) caused by an instrumentality of war and incurred in the line of duty during a period of war (as defined in sections 101 and 301 of title 38, United States Code); or*

(2) *his service does not include twenty or more years of full-time active service (regardless of when performed but not including periods of active duty for training); or*

(3) *immediately prior to the effective date of this subsection, he was employed in a civilian office to which this Act applies and, on and after such date, he continues to be employed in any such office without a break in service of more than thirty days.*

(c) *In computing length of total service, an employee who is a retired member of any of the uniformed services shall be given credit for—*

(1) *the length of time in active service in the armed forces during any war, or in any campaign or expedition (for which a campaign badge has been authorized); or*

(2) *if he is included under clause (1), (2), or (3) of subsection (b) of this section, the total length of time in active service in the armed forces.*

**SECTION 203(a) OF THE ANNUAL AND SICK LEAVE ACT OF
1951 (5 U.S.C. 2062(a))**

ANNUAL LEAVE

SEC. 203. (a) Officers and employees to whom this title applies shall be entitled to annual leave with pay which shall accrue as follows--

- (1) one-half day for each full biweekly pay period in the case of officers and employees with less than three years of service,
- (2) three-fourths day for each full biweekly pay period (except that the accrual for the last full biweekly pay period in the year shall be one and one-fourth days) in the case of officers and employees with three but less than fifteen years of service, and
- (3) one day for each full biweekly pay period in the case of officers and employees with fifteen years or more of service.

Except as otherwise provided in this subsection, in [In] determining years of service for the purposes of this subsection, there shall be included all service creditable under the provisions of section [5] § of the Civil Service Retirement Act [of May 29, 1930, as amended,] for the purposes of an annuity under such Act and the determination of the period of service rendered may be made upon the basis of an affidavit of the employee. Active military service of a retired member of any of the uniformed services is not creditable in determining years of service for the purpose of this subsection unless--

(1) his retirement was based on disability (A) resulting from injury or disease received in line of duty as a direct result of armed conflict or (B) caused by an instrumentality of war and incurred in the line of duty during a period of war (as defined in sections 101 and 301 of title 38, United States Code); or

(2) immediately prior to the effective date of this sentence, he was employed in a civilian office to which this Act applies and, on and after such date, he continued to be employed in any such office without a break in service of more than thirty days; or

(3) such service was performed in the armed forces during any war, or in any campaign or expedition (for which a campaign badge has been authorized). In the case of an officer or employee who is not paid on the basis of biweekly pay periods, the leave provided by this title shall accrue on the same basis as it would accrue if such officer or employee were paid on the basis of biweekly pay periods.

**SECTION 18 OF THE ACT OF DECEMBER 20, 1944, AS ADDED
BY SECTION 2 OF THE ACT OF AUGUST 19, 1950 (64 STAT.
466; D.C. CODE, SEC. 2-1226)**

SEC. 18. Notwithstanding the limitation of any other law or regulation to the contrary, any person heretofore or hereafter appointed as a member of the Commission may receive the compensation authorized by this Act to be paid to such member, as well as any retired pay, retirement compensation, or annuity to which such member may be entitled on account of previous service rendered to the United States or District of Columbia governments, *subject to section 201 of the Dual Compensation Act of 1963.*

**SECOND PARAGRAPH OF SECTION 2 OF THE ACT OF AUGUST
11, 1950 (64 STAT. 438; D.C. CODE, SEC. 6-1202)**

Notwithstanding the limitation of any law, there may be employed in such Office of Civil Defense any person who has been retired from any of the **[Armed Forces]** *uniformed services* of the United States or any office or position in the Federal or District governments, and *except as hereinafter provided*, while so employed in such Office of Civil Defense any such retired person may receive the compensation authorized for such employment or the **[retired pay,]** retirement compensation **[,]** or annuity, whichever he may elect, and upon the termination of **[his employment in such Office of Civil Defense,]** *such employment*, he shall be restored to the same status as a retired officer or employee with the same **[retired pay,]** retirement compensation **[,]** or annuity to which he was entitled before having been employed in such Office of Civil Defense. *While any person who has been retired from any of the uniformed services of the United States is so employed in such Office of Civil Defense, he may receive the compensation authorized for such employment and his retired or retirement pay, subject to section 201 of the Dual Compensation Act of 1963.*

**SECTION 13(b) OF THE PEACE CORPS ACT (75 STAT. 619;
22 U.S.C. 2512(b))**

EXPERTS AND CONSULTANTS

SEC. 13. (a) * * *

(b) Service of an individual as a member of the Council authorized to be established by section 12 of this Act or as an expert or consultant under subsection (a) of this section shall not be considered as service or employment bringing such individual within the provisions of section 281, 283, or 284 of title 18 of the United States Code, or of section 190 of the Revised Statutes (5 U.S.C. 99), or of any other Federal law imposing restrictions, requirements, or penalties in relation to the employment of persons, the performance of service, or the payment or receipt of compensation in connection with any claim, proceeding, or matter involving the United States Government, except insofar as such provisions of law may prohibit any such individual from receiving compensation in respect of any particular matter in which such individual was directly involved in the performance of such service; nor shall such service be considered as employment or holding of office or position bringing such individual within the provisions of section 13 of the Civil Service Retirement Act, as amended (5 U.S.C. 2263), **[section 212 of the Act of June 30, 1932, as amended (5 U.S.C. 59a),]** section 872 of the Foreign Service Act of 1946, as amended, or any other law limiting the reemployment of retired officers or employees or governing the simultaneous receipt of compensation and retired pay or annuities, *subject to section 201 of the Dual Compensation Act of 1963.*

**SECTION 44 OF THE ARMS CONTROL AND DISARMAMENT
ACT (75 STAT. 636; 22 U.S.C. 2584)**

CONFLICT OF INTEREST AND DUAL COMPENSATION LAWS

SEC. 44. The members of the General Advisory Committee created by section 26 of this Act, and the members of the advisory boards, the consultants, and the individuals of outstanding ability employed without compensation, all of which are provided in section 41 of this Act, may serve as such without regard to the provisions of section 281, 283, 284, or 1914 of title 18 of the United States Code, or of section 190 of the Revised Statutes (5 U.S.C. 99), or of any other Federal law imposing restrictions, requirements, or penalties in relation to the employment of individuals, the performance of services, or the payment or receipt of compensation in connection with any claim, proceeding, or matter involving the United States Government, except insofar as such provisions of law may prohibit any such individual from receiving compensation from a source other than a nonprofit educational institution in respect of any particular matter in which the Agency is directly interested. Nor shall such service be considered as employment or holding of office or position bringing such individual within the provisions of section 13 of the Civil Service Retirement Act (5 U.S.C. 2263), [section 212 of the Act of June 30, 1932, as amended (5 U.S.C. 59a)], or any other Federal law limiting the reemployment of retired officers or employees or governing the simultaneous receipt of compensation and retired pay or annuities, *subject to section 201 of the Dual Compensation Act of 1963.*

**SECTION 626(b) OF PART III OF THE ACT APPROVED
SEPTEMBER 4, 1961 (75 STAT. 451; 22 U.S.C. 2386(b))**

SEC. 626. EXPERTS, CONSULTANTS, AND RETIRED OFFICERS.—(a)
* * *

(b) Service of an individual as an expert or consultant under subsection (a) of this section shall not be considered as service or employment bringing such individual within the provisions of section 281, 283, or 284 of title 18 of the United States Code, or of section 190 of the Revised Statutes (5 U.S.C. 99), or of any other Federal law imposing restrictions, requirements, or penalties in relation to the employment of persons, the performance of services, or the payment or receipt of compensation in connection with any claim, proceeding, or matter involving the United States Government, except insofar as such provisions of law may prohibit any such individual from receiving compensation in respect of any particular matter in which such individual was directly involved in the performance of such service. Nor shall such service be considered as employment or holding of office or position bringing such individual within the provisions of section 13 of the Civil Service Retirement Act, as amended (5 U.S.C. 2263), [section 212 of Public Law 72-212, as amended (5 U.S.C. 59a)], section 872 of the Foreign Service Act of 1946, as amended, or any other law limiting the reemployment of retired officers or employees or governing the simultaneous receipt of compensation and retired pay or annuities, *subject to section 201 of the Dual Compensation Act of 1963.*

SECTION 28 OF THE ATOMIC ENERGY ACT OF 1954
(68 STAT. 926; 42 U.S.C. 2038)

SEC. 28. APPOINTMENT OF ARMY, NAVY, OR AIR FORCE OFFICERS.—Notwithstanding the provisions of any other law, any active officer of the Army, Navy, or Air Force may serve as Director of the Division of Military Application without prejudice to his commissioned status as such officer. Any such officer serving as Director of the Division of Military Application shall receive in addition to his pay and allowances, including special and incentive pays, an amount equal to the difference between such pay and allowances, including special and incentive pays, and the compensation prescribed in section 25. Notwithstanding the provisions of any other law, any active or retired officer of the Army, Navy, or Air Force may serve as Chairman of the Military Liaison Committee without prejudice to his active or retired status as such officer. [Any such officer serving as Chairman of the Military Liaison Committee shall receive, in addition to his pay and allowances, including special and incentive pays, or in addition to his retired pay, an amount equal to the difference between such pay and allowances, including special and incentive pays, or between his retired pay, and the compensation prescribed for the Chairman of the Military Liaison Committee.] *Any such active officer serving as Chairman of the Military Liaison Committee shall receive, in addition to his pay and allowances, including special and incentive pays, an amount equal to the difference between such pay and allowances, including special and incentive pays; and the compensation fixed for such Chairman. Any such retired officer serving as Chairman of the Military Liaison Committee shall receive the compensation fixed for such Chairman and his retired pay, subject to section 201 of the Dual Compensation Act of 1963.*

SECTION 204(d) OF THE NATIONAL AERONAUTICS AND SPACE ACT OF 1958 (72 STAT. 432; 42 U.S.C. 2474(d))

CIVILIAN-MILITARY LIAISON COMMITTEE

SEC. 204. (a) * * *

* * * * *

(d) Notwithstanding the provisions of any other law, any active or retired officer of the Army, Navy, or Air Force may serve as Chairman of the Liaison Committee without prejudice to his active or retired status as such officer. [The compensation received by any such officer for his service as Chairman of the Liaison Committee shall be equal to the amount (if any) by which the compensation fixed by subsection (a)(1) for such Chairman exceeds his pay and allowances (including special and incentive pays) as an active officer, or his retired pay.] *Any such active officer serving as Chairman of the Liaison Committee shall receive, in addition to his pay and allowances, including special and incentive pays, an amount equal to the difference between such pay and allowances, including special and incentive pays, and the compensation fixed by subsection (a)(1) for such Chairman. Any such retired officer serving as Chairman of the Liaison Committee shall receive the compensation fixed by subsection (a)(1) for such Chairman*

and his retired pay, subject to section 201 of the Dual Compensation Act of 1963.

SECTION 3(b)(1) OF THE ACT OF AUGUST 28, 1958 (72 STAT. 1091; PUBLIC LAW 85-850)

SEC. 3. (a) * * *

(b) The Commission shall be composed of eleven members appointed by the President as follows:

(1) One member, who shall serve as Chairman, and who shall be a resident from the area comprising the Savannah, Altamaha, Saint Marys, Apalachicola-Chattahoochee, and Perdido-Escambia River Basins (and intervening areas) embraced within the States referred to in the first section of this Act and who shall not, during the period of his service on the Commission, hold any other position as an officer or employee of the United States, except that a retired military officer or a retired Federal civilian officer or employee may be appointed under this Act without prejudice to his retired [status, and he shall receive compensation as authorized herein in addition to his retired pay or annuity, but the sum of his retired pay or annuity and such compensation as may be payable hereunder shall not exceed \$12,000 in any one calendar year;] status. *A retired Federal civilian officer or employee appointed under this Act shall receive compensation as authorized herein in addition to his annuity, but the sum of his annuity and such compensation as may be payable hereunder shall not exceed \$12,000 in any one calendar year. A retired military officer appointed under this Act shall receive compensation, as authorized herein and his retired pay, subject to section 201 of the Dual Compensation Act of 1963;*

SECTION 9 OF THE ACT OF OCTOBER 6, 1917 (40 STAT. 384; D.C. CODE, SEC. 31-631)

SEC. 9. [That section six of the legislative, executive, and judicial appropriation Act, approved May tenth, nineteen hundred and sixteen, as amended by the naval appropriation Act, approved August twenty-ninth, nineteen hundred and sixteen,] *Section 301 of the Dual Compensation Act of 1963 shall not apply to teachers in the public schools of the District of Columbia who are also employed as teachers of night schools and vacation schools.*

SECTION 6 OF THE ACT OF MARCH 3, 1925 (43 STAT. 1108), AS AMENDED BY THE ACT OF JANUARY 27, 1926 (44 STAT. 2; 2 U.S.C. 162; 5 U.S.C. 60)

SEC. 6. Employees of the Library of Congress who perform special functions for the performance of which funds have been entrusted to the board or the librarian, or in connection with cooperative undertakings in which the Library of Congress is engaged, shall not be subject to the proviso contained in the Act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1918, and for other purposes, approved

March 3, 1917, in Thirty-ninth Statutes at Large, at page 1106; [nor shall any additional compensation so paid to such employees be construed as a double salary under the provisions of section 6 of the Act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1917, as amended (Thirty-ninth Statutes at Large, page 582)] and section 301 of the Dual Compensation Act of 1963 shall not apply to any additional compensation so paid to such employees.

ACT OF JULY 1, 1942 (56 STAT. 467; D.C. CODE, SEC. 31-631a)

AN ACT To exempt custodial employees of the District of Columbia Board of Education from the operation of the provisions of section 6 of the Legislative, Executive, and Judicial Appropriation Act approved May 10, 1916

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, [That section 6 of the Act entitled "An Act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1917", approved May 10, 1916 (39th Stat. 120), and Acts amendatory thereto,] *That section 301 of the Dual Compensation Act of 1963 shall not apply to the custodial employees who are in the employ of the Board of Education of the District of Columbia when such employees are performing work required of them in school buildings during the time these buildings are used for nonrecreational official purposes by any Federal agency or department of the District of Columbia government other than the Board of Education, in accordance with the rules of the Board of Education governing the use of school buildings and grounds, including their use for day or evening schools; and nothing therein contained shall be deemed to prevent any custodial employee from receiving in addition to his pay, salary, or compensation as an employee of the Board of Education of the District of Columbia any other pay, salary, or compensation at a rate not in excess of the rate of pay received as an employee of the Board of Education, for services which may have been rendered subsequent to May 31, 1941, or which may hereafter be rendered to any Federal agency or department of the District of Columbia government other than the Board of Education, during its use of school buildings under the jurisdiction of the Board of Education of the District of Columbia.*

SECTION 2 OF THE ACT OF JULY 22, 1947 (61 STAT. 400, 74 STAT. 11; 33 U.S.C. 873)

SEC. 2. The Secretary of Commerce is hereby authorized to pay extra compensation to members of crews of vessels when assigned duties as instrument observer or recorder, and to employees of other Federal agencies while observing tides or currents, or tending seismographs or magnetographs, at such rates as may be specified from time to time by him and without regard to section 301 of the Dual Compensation Act of 1963.

**SECTION 3 OF THE ACT OF JUNE 2, 1948, AS AMENDED (62
STAT. 286, 74 STAT. 11; 15 U.S.C. 327)**

SEC. 3. The Secretary of Commerce is hereby authorized to (a) appoint employees for the conduct of meteorological investigations in the Arctic region without regard to the civil service laws and fix their compensation without regard to the Classification Act of 1949, as amended (5 U.S.C. 1071 and the following), and titles II and III of the Federal Employees Pay Act of 1945, as amended (5 U.S.C. 911 and the following), at base rates not to exceed the maximum scheduled rate for GS-12, and (b) grant extra compensation to employees of other Government agencies for taking and transmitting meteorological observations *without regard to section 301 of the Dual Compensation Act of 1963*.

**SECTION 10(b) OF THE DEFENSE DEPARTMENT OVERSEAS
TEACHERS PAY AND PERSONNEL PRACTICES ACT (73
STAT. 217; 5 U.S.C. 2358(b))**

APPLICABILITY OF CERTAIN EXISTING LAW

SEC. 10. (a) * * *

(b) In the case of any teacher who—

(1) is performing services as a teacher at the close of a school year,

(2) agrees in writing to serve as a teacher for the next school year, and

(3) is employed in another position in the recess period immediately preceding such next school year, or, during such recess period, receives quarters, allowances, or additional compensation referred to in sections 7 and 8 of this Act, or both, as the case may be,

section [2 of the Act of July 31, 1894 (5 U.S.C. 62), relative to the holding of more than one office, section 6 of the Act of May 10, 1916 (5 U.S.C. 58 and 59), relative to double salaries, and any other law relating to the receipt of more than one salary or the holding of more than one office] *301 of the Dual Compensation Act of 1963* shall not apply to such teacher by reason of any such employment during a recess period or any such receipt of quarters, allowances, or additional compensation, or both, as the case may be.

* * * * *

**SECTION 102 OF CHAPTER 7 OF TITLE 2, CANAL ZONE CODE
(76A STAT. 15)**

§ 102. Exemption of teachers with respect to dual offices and double salaries

[Section 2 of the Legislative, Executive, and Judicial Appropriation Act, approved July 31, 1894, as amended (28 Stat. 205; 5 U.S.C., sec. 62), and section 6 of the Legislative, Executive, and Judicial Appropriation Act, approved May 10, 1916, as amended (39 Stat. 120; 5 U.S.C., sec. 58), do] *Section 301 of the Dual Compensation Act of 1963* does not apply to teachers in the public schools of the Canal Zone who are also employed in night schools or in vacation schools or programs.

SECTION 23(b) OF TITLE 13, UNITED STATES CODE

§ 23. Additional officers and employees

(a) * * *

(b) In addition to employees of the Department of Commerce, employees of other departments and independent offices of the Government may, with the consent of the head of the respective department or office, be employed and compensated for field work in connection with the work provided for by law *without regard to section 301 of the Dual Compensation Act of 1963.*

**SUBSECTIONS (a) AND (c) OF SECTION 3335 OF TITLE 39,
UNITED STATES CODE**

§ 3335. Dual employment and extra duties

(a) The Postmaster General may appoint an employee to more than one position and he shall pay compensation at the rate provided by law for each position, without regard to the provisions of [sections 58, 62, 69, and 70 of title 5] *sections 69 and 70 of title 5 and section 301 of the Dual Compensation Act of 1963.*

* * * * *

(c) The Postmaster General, with the consent of the Administrator of General Services, may appoint custodial employees working under the jurisdiction of the General Services Administration at Federal buildings occupied in part by the Postal Service to positions in the Postal Service to perform postal duties in addition to their regular duties as custodial employees, and he shall pay compensation to them at the rate provided by law without regard to [sections 58, 62, 69, and 70 of title 5] *sections 69 and 70 of title 5 and section 301 of the Dual Compensation Act of 1963.*

SECTION 1763 OF THE REVISED STATUTES (5 U.S.C. 58).

[SEC. 1763. No person who holds an office, the salary or annual compensation attached to which amounts to the sum of two thousand five hundred dollars, shall receive compensation for discharging the duties of any other office, unless expressly authorized by law.]

SECTION 2074 OF THE REVISED STATUTES (25 U.S.C. 50)

[SEC. 2074. No person shall hold more than one office at the same time under this Title, nor shall any agent, sub-agent, interpreter, or person employed under this Title, receive his salary while absent from his agency or employment, without leave of the superintendent, or Secretary of the Interior; but such absence shall at no time exceed sixty days.]

ACT OF JULY 27, 1882 (22 STAT. 176)

[AN ACT To authorize the preparation and publication of a classified, analytical, and descriptive catalogue of all government publications from July fourth, seventeen hundred and seventy-six, to March fourth, eighteen hundred and eighty-one

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there be prepared and published, under the direction of the Joint Committee on Printing, a classified, analytical, and descriptive catalogue of all publications made by the authority of the Government of the United States and the preceding government of the Colonies, and all departments, bureaus, and offices thereof, from July fourth, seventeen hundred and seventy-six, to March fourth, eighteen hundred and eighty-one; and upon the request of the said joint committee, the officers of the Senate and House of Representatives, and the heads of all the executive departments and of all the bureaus and offices thereof, shall furnish to said joint committee all such information and assistance in reference to said publications as will facilitate or assist in the completion of said work; and the sum of ten thousand dollars is hereby appropriated for the purposes of this act which sum may be expended as additional pay or compensation to any officer or employé of the United States.]

**THE SENTENCE IN THE ACT OF FEBRUARY 25, 1885
(23 STAT. 329)**

[And hereafter no consul or consul-general shall be entitled to or allowed any part of any salary appropriated for payment of a secretary or second secretary of legation or an interpreter.]

**SECTION 4395 OF THE REVISED STATUTES AS AMENDED
BY THE ACT OF JANUARY 20, 1888 (25 STAT. 1)**

[SEC. 4395. That there shall be appointed by the President, by and with the advice and consent of the Senate, a person of scientific and practical acquaintance with the fish and fisheries to be a Commissioner of Fish and Fisheries, and he shall receive a salary at the rate of five thousand dollars a year, and he shall be removable at the pleasure of the President. Said Commissioner shall not hold any other office or employment under the authority of the United States or any State.]

**JOINT RESOLUTION [NO. 3] OF FEBRUARY 5, 1889
(25 STAT. 1019)**

[JOINT RESOLUTION Accepting the invitation of the Imperial German Government to the Government of the United States to become a party to the International Geodetic Association

[Whereas, the Government of the United States has been invited by the Imperial German Government to become a party to the International Geodetic Association: Therefore,

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President be, and

he is hereby, requested and authorized to accept said invitation, and that he is hereby authorized and requested to appoint a delegate, who shall be an officer of the United States Geodetic and Coast Survey, to attend the next meeting of said International Geodetic Association, but no extra salary or additional compensation shall be paid to such by reason of such attendance.】

SECTION 2 OF THE ACT OF JULY 31, 1894 (28 STAT. 205), AS AMENDED BY THE ACT OF MAY 31, 1924 (43 STAT. 245), BY SECTION 6 OF THE ACT OF JULY 30, 1937 (50 STAT. 549), AND BY THE ACT OF JUNE 25, 1938 (52 STAT. 1194), RELATING TO THE HOLDING OF TWO OFFICES (5 U.S.C. 62)

【SEC. 2. That the pay of assistant messengers, firemen, watchmen, laborers, and charwomen provided for in this Act, unless otherwise specially stated, shall be as follows: For assistant messengers, firemen, and watchmen, at the rate of seven hundred and twenty dollars per annum each; for laborers, at the rate of six hundred and sixty dollars per annum each, and for charwomen, at the rate of two hundred and forty dollars per annum each. No person who holds an office the salary or annual compensation attached to which amounts to the sum of two thousand five hundred dollars shall be appointed to or hold any other office to which compensation is attached unless specially heretofore or hereafter specially authorized thereto by law; but this shall not apply to retired officers of the Army, Navy, Marine Corps or Coast Guard whenever they may be elected to public office or whenever the President shall appoint them to office by and with the advice and consent of the Senate. Retired enlisted men of the Army, Navy, Marine Corps, or Coast Guard retired for any cause, and retired officers of the Army, Navy, Marine Corps, or Coast Guard who have been retired for injuries received in battle or for injuries or incapacity incurred in line of duty shall not, within the meaning of this section, be construed to hold or to have held an office during such retirement.】

THE FIFTH PARAGRAPH OF THE ACT OF FEBRUARY 20, 1895 (28 STAT. 676)

* * * * *

【The compensation of said commissioners shall be fixed by the Secretary of the Treasury, but the same shall not exceed six dollars per day and actual traveling expenses: *Provided, however,* That the member of said commission appointed from the Treasury Department shall be paid only his actual traveling expenses.】

* * * * *

SECTION 7 OF THE ACT OF JUNE 3, 1896 (29 STAT. 235; 5 U.S.C. 63)

【SEC. 7. That section two of the Act making appropriations for the legislative, executive, and judicial expenses of the Government

for the fiscal year ending June thirtieth, eighteen hundred and ninety-five, and for other purposes, approved July thirty-first, eighteen hundred and ninety-four, shall not be so construed as to prevent the employment of any retired officer of the Army or Navy to do work under the direction of the Chief of Engineers of the United States Army in connection with the improvement of rivers and harbors of the United States, or the payment by the proper officer of the Treasury of any amounts agreed upon as compensation for such employment.]

SECTION 7 OF THE ACT OF JUNE 28, 1902 (32 STAT. 483)

[SEC. 7. That to enable the President to construct the canal and works appurtenant thereto as provided in this Act, there is hereby created the Isthmian Canal Commission, the same to be composed of seven members, who shall be nominated and appointed by the President, by and with the advice and consent of the Senate, and who shall serve until the completion of said canal unless sooner removed by the President, and one of whom shall be named as the chairman of said Commission. Of the seven members of said Commission at least four of them shall be persons learned and skilled in the science of engineering, and of the four at least one shall be an officer of the United States Army, and at least one other shall be an officer of the United States Navy, the said officers respectively being either upon the active or the retired list of the Army or of the Navy. Said commissioners shall each receive such compensation as the President shall prescribe until the same shall have been otherwise fixed by the Congress. In addition to the members of said Isthmian Canal Commission, the President is hereby authorized through said Commission to employ in said service any of the engineers of the United States Army at his discretion, and likewise to employ any engineers in civil life, at his discretion, and any other persons necessary for the proper and expeditious prosecution of said work. The compensation of all such engineers and other persons employed under this Act shall be fixed by said Commission, subject to the approval of the President. The official salary of any officer appointed or employed under this Act shall be deducted from the amount of salary or compensation provided by or which shall be fixed under the terms of this Act. Said Commission shall in all matters be subject to the direction and control of the President, and shall make to the President annually and at such other periods as may be required, either by law or by the order of the President, full and complete reports of all their actings and doings and of all moneys received and expended in the construction of said work and in the performance of their duties in connection therewith, which said reports shall be by the President transmitted to Congress. And the said Commission shall furthermore give to Congress, or either House of Congress, such information as may at any time be required either by Act of Congress or by the order of either House of Congress. The President shall cause to be provided and assigned for the use of the Commission such offices as may, with the suitable equipment of the same, be necessary and proper, in his discretion, for the proper discharge of the duties thereof.]

* * * * *

THE PARAGRAPH OF THE ACT OF MARCH 4, 1909 (35 STAT. 931), RELATING TO THE PAY OF RETIRED ARMY AND NAVY OFFICERS AND ENLISTED MEN THEN IN THE EMPLOY OF THE ISTHMIAN CANAL COMMISSION

【Authority is hereby granted for the payment of salaries and wages accrued or hereafter earned of retired army and navy officers and enlisted men now in the employment of the Isthmian Canal Commission, in addition to their retired pay, where their compensation under such employment does not exceed two thousand five hundred dollars per annum.】

THE SECOND PARAGRAPH UNDER THE CENTER HEADING "THE ISTHMIAN CANAL" WITH THE SIDE HEADING "NATIONAL WATERWAYS COMMISSION:" IN THE ACT OF AUGUST 5, 1909 (36 STAT. 130)

THE ISTHMIAN CANAL

* * * * *

【NATIONAL WATERWAYS COMMISSION: Any officer or employee of the Government heretofore or hereafter employed by the National Waterways Commission not to exceed three persons at any one time may receive compensation for such employment from the money appropriated for said commission, notwithstanding the provisions of Revised Statutes, sections seventeen hundred and sixty-three, seventeen hundred and sixty-four, and seventeen hundred and sixty-five, and the Act approved July thirty-first, eighteen hundred and ninety-four, entitled "An Act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June thirtieth, nineteen hundred and five, and for other purposes," and any other law whatsoever relating to such employment and compensation; and, in addition to the traveling and other expenses of members of the commission and their employees, the actual necessary expenses of persons detailed by any department or bureau of the Government while accompanying said commission on any inspection trip in the United States or elsewhere may be paid from the money appropriated for said commission.】

SECTION 12 OF THE ACT OF AUGUST 20, 1912 (37 STAT. 319; 7 U.S.C. 165)

【SEC. 12. That for the purpose of carrying out the provisions of this Act there shall be appointed by the Secretary of Agriculture from existing bureaus and offices in the Department of Agriculture, including the Bureau of Entomology, the Bureau of Plant Industry, and the Forest Service, a Federal Horticultural Board consisting of five members, of whom not more than two shall be appointed from any one bureau or office, and who shall serve without additional compensation.】

SECTION 6 OF THE ACT OF MAY 10, 1916 (39 STAT. 120; 5 U.S.C. 58), AS AMENDED BY THE ACT OF AUGUST 29, 1916 (39 STAT. 582; 5 U.S.C. 59)

[SEC. 6. That unless otherwise specially authorized by law, no money appropriated by this or any other Act shall be available for payment to any person receiving more than one salary when the combined amount of said salaries exceeds the sum of \$2,000 per annum, but this shall not apply to retired officers or enlisted men of the Army, Navy, Marine Corps, or Coast Guard, or to officers and enlisted men of the Organized Militia and Naval Militia in the several States, Territories, and the District of Columbia: *Provided*, That no such retired officer, officer, or enlisted man shall be denied or deprived of any of his pay, salary, or compensation as such, or of any other salary or compensation for services heretofore rendered, by reason of any decision or construction of said section six.]

SECTION 8 OF THE ACT OF MARCH 21, 1918 (40 STAT. 455-456)

[SEC. 8. That the President may execute any of the powers herein and heretofore granted him with relation to Federal control through such agencies as he may determine, and may fix the reasonable compensation for the performance of services in connection therewith, and may avail himself of the advice, assistance, and cooperation of the Interstate Commerce Commission and of the members and employees thereof, and may also call upon any department, commission, or board of the Government for such services as he may deem expedient. But no such official or employee of the United States shall receive any additional compensation for such services except as now permitted by law.]

SECTIONS 3 AND 4 OF THE WAR FINANCE CORPORATION ACT (40 STAT. 507; 15 U.S.C. 333 AND 334)

[SEC. 3. That the management of the Corporation shall be vested in a board of directors, consisting of the Secretary of the Treasury, who shall be chairman of the board, and four other persons, to be appointed by the President of the United States, by and with the advice and consent of the Senate. No director, officer, attorney, agent, or employee of the Corporation shall in any manner, directly or indirectly, participate in the determination of any question affecting his personal interests, or the interests of any corporation, partnership, or association, in which he is directly or indirectly interested; and each director shall devote his time, not otherwise required by the business of the United States, principally to the business of the Corporation. Before entering upon his duties, each of the four directors so appointed, and each officer, shall take an oath faithfully to discharge the duties of his office. Nothing contained in this or any other Act shall be construed to prevent the appointment as a director of the Corporation of any officer or employee under the United States or of a director of a Federal reserve bank.]

【Of the four directors so appointed, the President of the United States shall designate two to serve for two years, and two for four years; and thereafter each director so appointed shall serve for four years. Whenever a vacancy shall occur among the directors so appointed, the person appointed director to fill any such vacancy shall hold office for the unexpired term of the member whose place he is selected to fill. Any director shall be subject to removal by the President of the United States. Three members of the board of directors shall constitute a quorum for the transaction of business.

【SEC. 4. That the four directors of the Corporation appointed as hereinbefore provided shall receive annual salaries, payable monthly, of \$12,000. Any director receiving from the United States any salary or compensation for services shall not receive as salary from the Corporation any amount which, together with any salary or compensation received from the United States, would make the total amount paid to him by the United States and by the Corporation exceed \$12,000.】

THE LAST PARAGRAPH UNDER THE HEADING "DISTRICT OF COLUMBIA." AND UNDER THE SUBHEADING "PUBLIC SCHOOLS." CONTAINED IN THE FIRST SECTION OF THE ACT OF JULY 8, 1918 (40 STAT. 823; D.C. CODE, SEC. 31-631)

DISTRICT OF COLUMBIA.

* * * * *

PUBLIC SCHOOLS.

* * * * *

【Section six of the legislative, executive, and judicial appropriation Act, approved May tenth, nineteen hundred and sixteen, as amended, shall not apply to employees of the community center department of the public schools of the District of Columbia.】

THE NINTH PARAGRAPH UNDER THE HEADING "DISTRICT OF COLUMBIA." AND UNDER THE SUBHEADING "PUBLIC SCHOOLS." CONTAINED IN THE FIRST SECTION OF THE THIRD DEFICIENCY ACT, FISCAL YEAR 1920 (41 STAT. 1017; D.C. CODE, SEC. 31-631)

DISTRICT OF COLUMBIA.

* * * * *

PUBLIC SCHOOLS.

* * * * *

【Section 6 of the Legislative, Executive, and Judicial Appropriation Act approved May 10, 1916, as amended, shall not apply to employees of the school garden department of the public schools of the District of Columbia.】

**THE PROVISIO CONTAINED IN THE PARAGRAPH UNDER THE
HEADING "BUREAU OF THE BUDGET" IN THE ACT OF
FEBRUARY 17, 1922 (42 STAT. 373; 5 U.S.C. 64)**

BUREAU OF THE BUDGET

Director, \$10,000: **[Provided, That section 2 of the Act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1895, and for other purposes, approved July 31, 1894, shall not be construed as having application to retired officers of the Army, Navy, Marine Corps, or Coast Guard who may be appointed to the offices created by section 207 of the Budget and Accounting Act, 1921, approved June 10, 1921, within the meaning of precluding payment to such officers of the difference in pay prescribed for such offices and their retired pay;]** Assistant Director, \$7,500; for all other necessary expenses of the bureau, including compensation of attorneys and other employees in the District of Columbia, printing, binding, telegrams, telephone service, law books, books of reference, periodicals, stationery, furniture, office equipment, other supplies, traveling expenses, street car fares, per diem in lieu of subsistence not exceeding \$4 for officers and employees while absent from the seat of government on official duty, \$137,300; in all \$154,800.

**SECTION 212 OF THE ACT OF JUNE 30, 1932 (47 STAT. 406),
AS AMENDED BY SECTION 3 OF THE ACT OF JULY 15, 1940
(54 STAT. 761), BY THE ACT OF FEBRUARY 20, 1954 (68
STAT. 18), BY SECTION 2 OF THE ACT OF AUGUST 4, 1955
(69 STAT. 498), BY SECTION 2201(11) OF THE ACT OF JUNE
17, 1957 (71 STAT. 158), AND BY SECTION 13(d) OF THE
ACT OF SEPTEMBER 2, 1958 (72 STAT. 1264)**

[LIMITATIONS ON AMOUNT OF RETIRED PAY

[SEC. 212. (a) After the date of the enactment of this Act, no person holding a civilian office or position, appointive or elective, under the United States Government or the municipal government of the District of Columbia or under any corporation, the majority of the stock of which is owned by the United States, shall be entitled, during the period of such incumbency, to retired pay from the United States for or on account of services as a commissioned officer in any of the services mentioned in the Pay Adjustment Act of 1922 [U.S.C., title 37], at a rate in excess of an amount which when combined with the annual rate of compensation from such civilian office or position, makes the total rate from both sources more than \$10,000; and when the retired pay amounts to or exceeds the rate of \$10,000 per annum such person shall be entitled to the pay of the civilian office or position or the retired pay, whichever he may elect. As used in this section, the term "retired pay" shall be construed to include credits for all service that lawfully may enter into the computation thereof.

[(b) This section shall not apply to any person whose retired pay, plus civilian pay, amounts to less than \$10,000: *Provided, That this*

section shall not apply to any regular or emergency commissioned officer retired for disability (1) incurred in combat with an enemy of the United States, or (2) caused by an instrumentality of war and incurred in line of duty during a period of war (as that term is used in chapter 11 of title 38, United States Code).】

ACT OF SEPTEMBER 13, 1940 (54 STAT. 885)

【**JOINT RESOLUTION** To authorize Jesse H. Jones, Federal Loan Administrator, to be appointed to, and to perform the duties of, the Office of Secretary of Commerce

【Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding any provision of law to the contrary, Jesse H. Jones, Federal Loan Administrator, may continue in such office and be appointed to, in the manner now provided by law, and may exercise the duties of the Office of Secretary of Commerce: Provided, That the total compensation to be paid him as Secretary of Commerce and as Federal Loan Administrator shall be that provided by law for the Secretary of Commerce.】

ACT OF MARCH 29, 1945 (59 STAT. 38)

【**JOINT RESOLUTION** Providing for the employment of Government employees for folding speeches and pamphlets, House of Representatives

【Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding the provisions of the Act of May 10, 1916, as amended by the Act of August 29, 1916, the Doorkeeper of the House of Representatives is hereby authorized during the Seventy-ninth Congress to employ, whenever necessary, the services of Government employees for folding speeches and pamphlets at the prevailing rates provided by law.】

ACT OF AUGUST 10, 1946 (60 STAT. 978), AS AMENDED BY THE ACT OF OCTOBER 29, 1951 (65 STAT. 662)

【**AN ACT** To authorize the Veterans' Administration to appoint and employ retired officers without affecting their retired status, and for other purposes

【Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding section 2 of the Act of July 31, 1894 (28 Stat. 205), as amended (5 U.S.C. 62), or section 6 of the Act of May 10, 1916 (39 Stat. 120), as amended (5 U.S.C. 58, 59), the Administrator of Veterans' Affairs may appoint to, and employ in, any civilian office or position in the Veterans' Administration, and pay, any retired commissioned officer, or retired warrant officer, of the Army, Navy, Marine Corps, Coast Guard, Coast and Geodetic Survey, and Public Health Service. The retired status, office, rank, and grade of retired commissioned officers, or retired warrant officers, so appointed or employed and, except as provided in section 212 of the Act of June 30, 1932 (47 Stat. 406), as

amended (5 U.S.C. 59a), any emolument, perquisite, right, privilege, or benefit incident to or arising out of any such status, office, rank, or grade, shall be in no way affected by reason of such appointment to or employment in, or by reason of service in, or acceptance or holding of, any civilian office or position in the Veterans' Administration or the receipt of the pay thereof.

【SEC. 2. The authority to employ retired commissioned officers or retired warrant officers contained in section 1 of this Act shall be effective for a period of ten years from the date of enactment.】

THE FIFTH SENTENCE OF SECTION 3 OF THE RECONSTRUCTION FINANCE CORPORATION ACT, AS IN EFFECT ON JUNE 30, 1947 (47 STAT. 6), AND AS CONTINUED BY SECTION 3(a) OF SUCH ACT, AS AMENDED (61 STAT. 203, 62 STAT. 262; 15 U.S.C. 603(a))

SEC. 3. * * *

【Nothing contained in this or in any other Act shall be construed to prevent the appointment and compensation as an employee of the corporation of any officer or employee of the United States in any board, commission, independent establishment, or executive department thereof.】

SECTION 2 OF THE ACT OF JULY 11, 1947 (61 STAT. 311; D.C. CODE, SEC. 4-183)

【SEC. 2. Notwithstanding the limitations of existing law, the said Commissioners may appoint to, and employ in, the position of director of such band, any retired officer of the United States Army, Navy, Marine Corps, or Coast Guard, and such retired officer shall be entitled to receive, in addition to his retired pay, the compensation authorized by this Act to be paid to such director, such additional compensation to be payable from District of Columbia appropriations.】

* * * * *

SECTION 3 OF THE ACT OF APRIL 21, 1948, AS AMENDED (7 U.S.C. 438)

【SEC. 3. Until December 31, 1949,¹ the Secretary of the Army may detail to the Department of Agriculture such military personnel, including officers in the Veterinary Corps of the Medical Department, as he may determine with the Secretary of Agriculture to be desirable to effectuate the purposes of this Act or to safeguard the interest of the United States. Notwithstanding the limitations contained in existing law, retired officer personnel of the Department of the Army, if employed by the Department of Agriculture for the purposes of this Act only, may receive in addition to their retired pay civilian salary to the extent that the total from both sources does not exceed the pay and allowances received by such persons in the permanent grade last held by them prior to retirement.】

* * * * *

¹ The authority of section 3 was continued until December 31, 1949, by Department of Agriculture Appropriation Act, 1950.

SECTION 9 OF THE ACT OF JUNE 4, 1948 (62 STAT. 342; D.C. CODE, SEC. 2-1709)

SEC. 9. The Armory Board is authorized to employ and fix the compensation and term of a manager and such personnel as may be necessary in connection with the operation of the armory for the secondary purposes of this Act without regard to the provisions of the civil-service laws and Classification Act of 1923, as amended [, and without regard to any prohibition against double salaries contained in any other law]. Under the direction of the Board and with written authorization signed by the members thereof, said manager may exercise such of the powers vested in the Board by section 6 of this Act as the Board shall determine.

* * * * *

SECTION 5(f) OF THE CENTRAL INTELLIGENCE AGENCY ACT OF 1949, AS AMENDED (65 STAT. 89, 72 STAT. 337; 50 U.S.C. 403f(f))¹

GENERAL AUTHORITIES

SEC. 5. In the performance of its functions, the Central Intelligence Agency is authorized to—

* * * * *

[(f)(1) Notwithstanding section 2 of the Act of July 31, 1894 (28 Stat. 205), as amended (5 U.S.C.A. 62), or any other law prohibiting the employment of any retired commissioned or warrant officer of the armed services, the Agency is hereby authorized to employ and to pay the compensation of not more than fifteen retired officers or warrant officers of the armed services while performing service for the Agency, but while so serving such retired officer or warrant officer will be entitled to receive only the compensation of his position with the Agency, or his retired pay, whichever he may elect.

[(2) Nothing in this section shall limit or affect the appointment of and payment of compensation to retired officers or warrant officers not presently or hereafter prohibited by law.]

SECTION 103 OF THE AMERICAN-MEXICAN TREATY ACT OF 1950 (64 STAT. 847)

SEC. 103. There are hereby authorized to be appropriated to the Department of State for the use of the Commission, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the provisions of the Treaty of February 3, 1944, and other treaties and conventions between the United States of America and the United Mexican States, under which the United States Section operates, and to discharge the statutory functions and duties of the United States Section. Such sums shall be available for

¹ Section 5(f) of the Central Intelligence Agency Act was formerly section 6(f) of such Act and was redesignated as section 5(f) of such Act by section 21(b)(2) of the Government Employees Training Act (72 Stat. 337; Public Law 85-607).

construction, operation and maintenance of stream gaging stations, and their equipment and sites therefor; personal services and rent in the District of Columbia and elsewhere; services, including those of attorneys and appraisers, in accordance with the provisions of Section 15 of the Act of August 2, 1946 (5 U.S.C., sec. 55a), at rates for individuals not in excess of \$100 per diem and the United States Commissioner is hereby authorized, notwithstanding the provisions of any other Act, to employ as consultants by contract or otherwise without regard to the Classification Act of 1949, as amended, and the civil-service laws and regulations, retired personnel of the Armed Forces of the United States, who shall not be required to revert to an active status [, and who shall be entitled to receive, as compensation for such temporary service, the difference between the rates of pay established therefor and their retired pay during the period or periods of such temporary employment] ; travel expense, including, in the discretion of the Commissioner, expenses of attendance at meetings of organizations concerned with the activities of the Commission which may be necessary for the efficient discharge of the responsibilities of the Commission; hire, with or without personal services, of work animals, and animal-drawn and motor-propelled (including passenger) vehicles and aircraft and equipment; acquisition by donation, purchase, or condemnation, of real and personal property, including expenses of abstracts, certificates of title, and recording fees; purchase of ice and drinking water; inspection of equipment, supplies and materials by contract or otherwise; drilling and testing of foundations and dam sites, by contract if deemed necessary; payment for official telephone service in the field in case of official telephones installed in private houses when authorized under regulations established by the Commissioner; purchase of firearms and ammunition for guard purposes; and such other objects and purposes as may be permitted by laws applicable, in whole or in part, to the United States Section: *Provided*, That, when appropriations have been made for the commencement or continuation of construction or operation and maintenance of any such project, the United States Commissioner, notwithstanding the provisions of sections 3679, 3732, and 3733 of the Revised Statutes or any other law, may enter into contracts beyond the amount actually appropriated for so much of the work on any such authorized project as the physical and orderly sequence of construction makes necessary, such contracts to be subject to and dependent upon future appropriations by Congress.

* * * * *

**SECTION 401(a) OF THE FEDERAL CIVIL DEFENSE ACT OF
1950, AS AMENDED (64 STAT. 1254; 50 U.S.C. APP. 2253(a))**

ADMINISTRATIVE AUTHORITY

SEC. 401. For the purpose of carrying out his powers and duties under this Act, the Administrator is authorized to—

(a) employ civilian personnel for duty in the United States, including the District of Columbia, or elsewhere, subject to the civil-service laws, and to fix the compensation of such personnel in accordance with the Classification Act of 1949, as amended;

[and, notwithstanding the provisions of any other law, except those imposing restrictions upon dual compensation, employ, in a civilian capacity, with the approval of the President, not to exceed twenty-five retired personnel of the armed services on a full- or part-time basis without loss or reduction of or prejudice to their retired status;]

* * * * *

SUBPARAGRAPH (g) OF THE THIRD PARAGRAPH OF THE ACT OF AUGUST 5, 1953 (67 STAT. 366), AS AMENDED BY THE ACT OF AUGUST 9, 1955 (69 STAT. 590), AND BY THE ACT OF AUGUST 28, 1957 (71 STAT. 457)

[(g) Notwithstanding section 2 of the Act of July 31, 1894, as amended (5 U.S.C. 62), section 212 of the Act of June 30, 1932, as amended (5 U.S.C. 59a) or any other Federal law, one retired officer of the services mentioned in the Career Compensation Act of 1949 may be appointed to any civilian office or position in the Corregidor-Bataan Memorial Commission created by the Act of August 5, 1953, as amended (36 U.S.C. 426), for a period of not to exceed five years, and receive retired pay as a retired officer and civilian compensation concurrently. The retired status, office, rank, or grade such retired officer may occupy or hold, or any emolument, prerequisite, right, privilege, or benefit, incident to or arising out of such status, office, rank or grade, shall be in no way affected by reason of such appointment to or employment in such Commission.]

SECTION 12 OF THE DISTRICT OF COLUMBIA TEACHERS' SALARY ACT OF 1955 (69 STAT. 529; D.C. CODE, SEC. 31-1541)

[SEC. 12. Notwithstanding any law or regulation to the contrary, the Board, on the written recommendation of the Superintendent of Schools, may employ not more than fifteen retired members of the armed services of the United States as teachers of military science and tactics in the public high schools of the District of Columbia, and such teachers so employed shall be entitled to compensation in accordance with the salary schedules in section 1 of this Act, in addition to their retired pay and allowances.]

SECTION 8 OF THE ACT OF SEPTEMBER 7, 1957 (71 STAT. 628; 36 U.S.C. 748)

[SEC. 8. Notwithstanding section 2, of the Act of July 31, 1894 (28 Stat. 205), as amended (5 U.S.C. 62), or section 6 of the Act of May 10, 1916 (39 Stat. 120), as amended (5 U.S.C. 58, 59), the Chairman of the Commission may appoint to, and employ in, any civilian office or position in the Commission, and pay, any retired commissioned officer, or retired warrant officer, of the Army, Navy, Marine Corps, Coast Guard, Coast and Geodetic Survey, or Public Health Service. The retired status, office, rank, and grade of retired

commissioned officers or retired warrant officers, so appointed or employed and, except as provided in section 212 of the Act of June 30, 1932 (47 Stat. 406), as amended (5 U.S.C. 59a), any emolument, perquisite, right, privilege, or benefit incident to or arising out of any such status, office, rank, or grade, shall be in no way affected by reason of such appointment to or employment in, or by reason of service in, or acceptance or holding of, any civilian office or position in the Commission or the receipt of the pay thereof.】

* * * * *

SECTION 293(b)(11) OF THE NATIONAL AERONAUTICS AND SPACE ACT OF 1958 (72 STAT. 431; 42 U.S.C. 2473(b)(11))

FUNCTIONS OF THE ADMINISTRATION

SEC. 203. (a) * * *

(b) In the performance of its functions the Administration is authorized:

* * * * *

【(11) to employ retired commissioned officers of the armed forces of the United States and compensate them at the rate established for the positions occupied by them within the Administration, subject only to the limitations in pay set forth in section 212 of the Act of June 30, 1932, as amended (5 U.S.C. 59a);】

* * * * *

SECTION 626(c) OF THE ACT OF SEPTEMBER 4, 1961 (75 STAT. 451; 22 U.S.C. 2386(c))

SEC. 626. EXPERTS, CONSULTANTS, AND RETIRED OFFICERS.—(a)
* * *

* * * * *

【(c) Notwithstanding section 2 of the Act of July 31, 1894, as amended (5 U.S.C. 62), any retired officer of any of the services mentioned in the Career Compensation Act of 1949, as amended (37 U.S.C. 231 et seq.), may hold any office or appointment under this Act, but the compensation of any such retired officer shall be subject to the provisions of section 212 of Public Law 72-212, as amended.】

SECTION 201(d) OF CHAPTER 7 OF TITLE 2, CANAL ZONE CODE (76A STAT. 21)

§ 201. Compensation of persons in military, naval, or Public Health Service who serve Canal Zone Government or Panama Canal Company

(a) * * *

* * * * *

【(d) In the case of persons retired as members of a regular component of the armed forces or the Public Health Service of the United States who are appointed to or employed in positions in the Canal

Zone Government or the Panama Canal Company, the amount of their retired pay shall be deducted from the amount of their civilian salary or compensation. This subsection does not require the deduction of the retired pay of any warrant officer or enlisted man.】

SECTION 507 OF THE DEPARTMENT OF DEFENSE APPROPRIATION ACT, 1964 (77 STAT. 264; PUBLIC LAW 88-149)

Sec. 507. Appropriations for the Department of Defense for the current fiscal year shall be available for: (a) donations of not to exceed \$25 to each prisoner upon each release from confinement in military or contract prison and to each person discharged for fraudulent enlistment; (b) authorized issues of articles to prisoners, applicants for enlistment and persons in military custody; (c) subsistence of selective service registrants called for induction, applicants for enlistment, prisoners, civilian employees as authorized by law, and supernumeraries when necessitated by emergent military circumstances; (d) reimbursement for subsistence of enlisted personnel while sick in hospitals; (e) expenses of prisoners confined in non-military facilities; (f) military courts, boards, and commissions; (g) utility services for buildings erected at private cost, as authorized by law, and buildings on military reservations authorized by regulations to be used for welfare and recreational purposes; (h) exchange fees, and losses in the accounts of disbursing officers or agents in accordance with law; (i) expenses of Latin-American cooperation as authorized for the Navy by law (10 U.S.C. 7208); and (j) expenses of apprehension and delivery of deserters, prisoners, and members absent without leave, including payment of rewards of not to exceed \$25 in any one case【: *Provided*, That section 212 of the Act of June 30, 1932 (5 U.S.C. 59a), shall not apply to retired military personnel on duty at the United States Soldiers' Home】.

SECTION 4103(b) OF TITLE 38, UNITED STATES CODE

§ 4103. Appointments and compensation

(a) * * *

(b) The Chief Medical Director shall be the Chief of the Department of Medicine and Surgery and shall be directly responsible to the Administrator for the operations of the Department. He shall be a qualified doctor of medicine, appointed by the Administrator. 【Section 62 of title 5 of the United States Code shall not apply to any individual appointed Chief Medical Director before January 1, 1964; however, section 59a of title 5 shall apply, in accordance with its terms, to any such individual.】 During the period of his service as such, the Chief Medical Director shall be paid a salary of \$21,050 a year.

○

Calendar No. 904

88TH CONGRESS }
2d Session }

SENATE

REPORT
No. 935

DUAL EMPLOYMENT AND DUAL COMPENSATION

MARCH 4 (legislative day, FEBRUARY 26), 1964.—Ordered to be printed

Mr. YARBOROUGH, from the Committee on Post Office and Civil Service, submitted the following

R E P O R T

[To accompany H.R. 7381]

The Committee on Post Office and Civil Service, to whom was referred the bill (H.R. 7381) to simplify, modernize, and consolidate the laws relating to the employment of civilians in more than one position and the laws concerning the civilian employment of retired members of the uniformed services, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

AMENDMENTS

Title II is amended by eliminating section 205. This provision would require public notice, a waiting period, and open, competitive examinations in order to fill any vacancy in the competitive civil service if a retired member of the Armed Forces is a candidate for the position. Since agencies could never positively determine whether a retired member would be interested in applying for such a position, the entire examining and appointing procedures of the Civil Service Commission would have to be revised in order to comply with the requirements of this section. The committee believes that because section 204 of the bill lends adequate protection to civilian employees and eliminates certain inequities in the hiring of retired military personnel, section 205 is unnecessarily restrictive.

Title III is amended in regard to the employment of one person in more than one civilian office. The new provisions in sections 301 and 402(c) will maintain the status quo for employment in certain positions in the legislative branch of the Government.

PURPOSE

Four basic goals can be attained by enactment of this legislation.

(1) At the present time, legislation and administrative decisions in regard to dual compensation and dual employment are varied and complex. There are approximately 50 separate statutes and 200 Comptroller General decisions relating to the employment of retired military personnel and the dual employment of civilian officers. Few administrators or personnel officers in Federal agencies fully understand the present law, and cannot be present in every case when an important decision or interpretation applicable to a particular situation is made. Thus by merely simplifying and consolidating all these laws and regulations into one manageable statute, a major accomplishment will be achieved. Many unfortunate errors which have been made in the past will be avoided in the future. A key example of such an incident is illustrated by recent Comptroller General decisions involving certain warrant officers and retired Reserve officers now employed by the Government. The decisions brought these groups within the prohibitions of the 1894 and 1932 dual compensation statutes, thus requiring reduction in retirement pay for some and substantial demands for overpayment of salary for others. In some cases these overpayments amounted to many thousands of dollars. Relief for these two groups is included in the present bill.

(2) Under present law, a Regular officer of the U.S. Armed Forces, including a warrant officer, retired for length of service, is prohibited from accepting Federal employment because of the maximum salary limitation established under the Dual Office Act of 1894. Testimony before the Subcommittee on Civil Service in its public hearings on December 12, 1963, revealed that in many cases the Government may be the loser because of these restrictions. Many skilled technicians, retired at relatively young ages from the Armed Forces, can be effectively utilized in civilian agencies. But because of the restrictions of present law, the Government cannot even offer these people employment even though many of them would prefer to remain in public service and are particularly suited to Federal employment. A major source of well-trained prospective employees is completely unavailable.

(3) Under present law, no person may hold two civilian positions in the Government if the combined compensation exceeds \$2,000 per annum. At the present time, the lowest salary on the general schedule is \$3,305 per annum. H.R. 7381 would modernize dual compensation provisions to allow a person to hold several part-time jobs so long as the aggregate number of hours worked does not exceed the equivalent of one full-time position. Emphasis will be placed upon the number of hours worked, not the compensation earned.

(4) By allowing Regular officers retired for length of service to be employed by the Government in a civilian office and at the same time retain some of their military retirement pay, a more equitable employment system will be established. Retired Reserve officers, enlisted men, and Regular officers retired for combat disability are not now restricted by dual employment laws. H.R. 7381 does not affect these retired military persons insofar as their retirement pay or civilian pay is concerned. It does, however, give their fellow service member, the Regular officer retired upon the completion of his career, a more equitable employment opportunity.

DUAL EMPLOYMENT AND DUAL COMPENSATION

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JUSTIFICATION

In addition to numerous special statutes and some 200 Comptroller General decisions, there are 3 basic statutes regarding dual employment and dual compensation. The Dual Office Act of 1894 was designed to prohibit the employment of any person in any Federal office if such person was already an office holder if either of the positions involved paid \$2,500 per annum. A retired member of the Armed Forces is considered to be an office holder for the purposes of this act. At the time, very few retired military personnel received \$2,500 retirement pay, and few positions paid as much as \$2,500 per annum. It worked no substantial hardship on either the Government or the retired military man. Over the years, the situation has changed. The 1894 act has been amended or interpreted to exclude from its prohibition everyone except Regular officers retired for length of service. All others, enlisted, Reserve, or disabled, are not subject to the act.

The Dual Compensation Act of 1916 prohibits the employment of one person in two civilian positions if the total compensation exceeds \$2,000 per annum. Many exceptions have been made to this act for particular Government needs.

The Economy Act of 1932 stipulates that retired commissioned officers employed by the Government shall have their retirement pay reduced to the extent necessary to maintain a maximum compensation of \$10,000 per annum. Reserve officers were excepted from the provisions of this act. If both retirement pay and civilian compensation are in excess of \$10,000, the employee may choose which salary he wishes to receive, but he may not receive both. Since the 1894 act applies to many of the same officers, the only group affected by the 1932 act are Regular and temporary commissioned officers retired for noncombat physical disability.

No doubt congressional policy established at the time these laws were passed was reasonable. However, changing economic and employment conditions necessitate substantial revision in the basic policy which the Government should enforce in regard to the employment of retired military personnel as well as dual compensation. Twenty-five hundred dollars is no longer a realistic figure when no office under the general schedule, postal field service schedule, or most other Federal salary schedules is compensated at such a low sum. Two thousand dollars as the maximum salary for persons holding more than one office (particularly when many of these people hold part-time jobs) is not in line with current wage scales or costs of living. Of most importance, however, is the fact that a highly trained group of career military officers, many of whom are interested in joining the Federal civilian work force and remaining in public service, are presently prohibited, absolutely, from continuing to serve their country. Such a waste of skilled manpower in the atomic and space age does more harm to the prospective employer—the Government—than the prospective employee, who can in many instances find more financially rewarding employment in private industry. Many of the skills possessed by these people are not readily available to the Government or private enterprise from other sources. Several examples of retired military officers who sought Federal employment and were barred by the dual compensation statutes should adequately illustrate the problem.

(1) A medical officer who had specialized in research in pathology retired from the Army as a colonel. The Public Health Service is doing research in the same area and could have used his background and skills to great advantage.

(2) An aeronautical engineer, retired as a lieutenant colonel at age 42, with a background in research and development, had to seek employment outside the Government. He had received his master's degree from the Air Institute of Technology—an Air Force school.

(3) In testimony before the committee, Dr. Linus Zink, Assistant Chief Medical Director of the Veterans' Administration, pointed out several examples where eminently qualified specialists in the fields of pathology, radiology, and the new and rare specialty of hyperbarics were prevented from working for the Department of Medicine and Surgery because of dual compensation restrictions.

(4) Although special legislation relieves the National Aeronautics and Space Administration from the absolute bar against hiring retired Regular officers, the employee must surrender all of his retirement pay. NASA Administrator James E. Webb has pointed out numerous examples of skilled persons badly needed in the space program who entered private industry in order to retain retirement pay of several thousand dollars a year.

The situation is approaching a critical stage. Government employment needs grow in the specialized fields more with each passing year. To prohibit a large number of retired Regular officers from serving their country in a civilian capacity as they have served it in a military career seems not only unjustified, and a singular discrimination, but a waste of manpower and skill that can no longer be afforded.

SECTIONAL ANALYSIS OF THE BILL AS REPORTED

TITLE I—DEFINITIONS

Section 101 defines the special terms used, most of which are based on the definitions used for the same words by section 101 of title 37, United States Code. The definition of "civilian office" is intended to cover employment in any civilian office or position in the Government of the United States or in the municipal government of the District of Columbia whether appointive, elective, under a personal service contract, or otherwise. Such term also covers employment in non-appropriated fund instrumentalities under the jurisdiction of the Armed Forces.

TITLE II—EMPLOYMENT OF RETIRED MEMBERS OF UNIFORMED SERVICES

Reduction in retired or retirement pay

Section 201(a) provides that a retired officer of any Regular component of the uniformed services who holds a civilian office shall receive the full compensation of the civilian office plus the first \$2,000 of his retired or retirement pay, plus one-half of the remainder, if any.

Section 201(a) also provides that the \$2,000 shall be increased by appropriate percentages in direct proportion to each increase in such retired or retirement pay under section 1401a(b) of title 10, United States Code, to reflect changes in the consumer price index. Thus, if the first increase under such section 1401a(b) amounts to 3 percent,

such a retired officer thereafter will have his retirement or retired pay reduced to an annual rate equal to the first \$2,000 increased by 3 percent plus one-half the remainder and the next increase under such section 1401a(b) would be applied to the new base and any later increases applied accordingly.

Section 201(b) excepts from reduction in retired pay required by subsection (a) a retired officer of any Regular component of the uniformed services whose retirement was based on disability resulting from an injury or disease received in line of duty as a direct result of armed conflict or based on disability caused by an instrumentality of war and incurred in the line of duty during a period of war.

Section 201(c) excepts from the reduction in retired or retirement pay required by subsection (a) the first 30 days of a temporary, part-time, or intermittent appointment if serving under one appointment, or not to exceed a total of 30 days during any fiscal year in case the employee is serving under more than one appointment.

Section 201(d) provides a definition of "period for which he receives salary" for purposes of subsections (a) and (c) of section 201.

Section 201(e) authorizes the U.S. Civil Service Commission, subject to the supervision and control of the President, to prescribe regulations under which exceptions to subsection (a) may be made whenever it is determined by appropriate authority that exceptions are warranted on the basis of special or emergency employment needs which otherwise cannot readily be met. Authority to provide a means for exceptions from subsection (a) also is vested in the President of the Senate with respect to the U.S. Senate, the Speaker of the House with respect to the U.S. House of Representatives, and the Architect of the Capitol with respect to the Office of the Architect of the Capitol. Special authority is granted the Administrator of the National Aeronautics and Space Administration to exempt from such subsection (a) any individual in a scientific, engineering, or administrative position appointed pursuant to section 203(b)(2)(A) of the National Aeronautics and Space Act of 1958, as amended (42 U.S.C. 2473(b)(2)(A)), but not more than 30 such exemptions may exist at any one time.

Section 201(f) provides that a retired officer of any Regular component of the uniformed services who was employed in a civilian office on the day immediately preceding the effective date of the subsection may elect to remain subject to and continue under any applicable limitations on or exceptions to the amount of compensation to be received which were in effect prior to such effective date, or to be subject to the applicable limitations and exceptions contained in subsections (a), (b), (c), and (e) of section 201.

It is expected that very few Regular officers will be in a position to exercise this option because the only Regular officers serving in civilian positions at the present time are those serving in positions for which specific statutory exemptions have been granted from the dual office holding prohibitions of section 2 of the act of July 31, 1894, as amended (5 U.S.C. 62).

Reserve officers

Section 201(g) authorizes the retroactive exemption from the \$10,000 compensation restriction of section 212 of the act of June 30, 1932, as amended (5 U.S.C. 59a), for certain retired members who were

serving in the Army or Air Force of the United States without component in a temporary grade higher than, or the same as, the Reserve commission then held who were retired in such grade for physical disability. The exemption will be retroactive and apply to each such person for any period following his retirement. The effect of the provision will be to require retroactive adjustment in retirement or retired pay and will overcome the recent decision of the Comptroller General involving these officers (B-136459, May 18, 1961).

Warrant officers

Section 201(h) will exempt a non-Regular member of any of the Armed Forces who served on active duty in a temporary warrant officer grade and who was retired in that status prior to the effective date prescribed by section 403(a) of the bill from the restriction in section 2 of the act of July 31, 1894; as amended (5 U.S.C. 62), for any period following his retirement. This provision is designed to protect the civilian appointments of such retired warrant officers retroactively to the date of their appointment to civilian positions. This provision will overcome the holding of the Comptroller General's decision of April 2, 1963 (B-141989) that a retired temporary warrant officer is subject to the dual-office restriction contained in the act of July 31, 1894, and therefore could not legally be appointed to a civilian office.

Veterans' preference

Section 202 amends section 12 of the Veterans' Preference Act in regard to retention preference for purposes of reductions in force. This committee has devoted its most careful attention to this aspect of the bill. The original proposal of the Civil Service Commission recommended elimination of all veterans' preference for any retired member of the Armed Forces having more than 6 years' continuous active duty. As reported, H.R. 7381 will remove career military retirees employed in the future in the civilian service from the preferred category for purposes of reductions in force and will count only their wartime service in computing seniority. This will eliminate the very substantial advantage which career military personnel now enjoy over career civilian personnel who may or may not be entitled to preference. For instance, a retired military man who enters the Federal service after 30 years in the Army immediately attains 30 years' seniority plus retention preference. Thus, in his competitive group in a reduction in force, the retired military man will be removed from his position only after all nonveterans have been removed and only after all preference veterans having less seniority have been removed. The amendment will give greater protection to the career civilian employee who is a veteran of wartime service as well as the career employee who is not a veteran entitled to preference. All retired military persons having less than 20 years' service, those retired on combat disability, and those presently employed by the Government will retain all preference.

Crediting military service for annual leave purposes

Section 203 of the bill amends section 203(a) of the Annual and Sick Leave Act of 1951 to provide a more restrictive method of crediting active military service of a retired member of any of the uniformed services for annual leave accrual purposes. Under existing law, all service creditable under section 3 of the Civil Service Retire-

ment Act for purposes of annuity may be counted in determining annual leave accruals (which are based on 13 days per year up to 3 years of service, 20 days after 3 years of service up to 15 years, and 26 days per year after 15 years of service). It is the current practice to count all military service for annual leave accrual purposes since all military service is creditable under the Civil Service Retirement Act if the retiree waives his military retired pay.

The amendment to the Annual and Sick Leave Act of 1951 made by section 203 of the bill will permit a retired member of the uniformed services to count, for annual leave accrual purposes, only military service performed in the Armed Forces during any war or in any campaign or expedition for which a campaign badge has been authorized or all of his military service if his retirement is based on disability resulting from injury or disease received in line of duty as a direct result of armed conflict or based on disability caused by an instrumentality of war and incurred in line of duty during a period of war. The section also contains a savings clause to permit those now employed to continue counting all their military service.

Employment of retired military personnel in the Department of Defense

Section 204 establishes certain safeguards regarding the employment of retired military personnel in the Defense Department for a certain period of time after their retirement. Under the provisions of the Gilpatric Memorandum, issued by the Deputy Secretary of Defense in 1961, no retired military person can be employed on the same base where he was stationed 6 months prior to his retirement unless the Secretary of the appropriate Department approves the employment. Section 204 incorporates the principle of the Gilpatric Memorandum into the law, and expands it to prohibit the employment of such a person any where in the Department of Defense for a period of 6 months unless the criteria in section 204(b) are satisfied and the permission of the appropriate Secretary and, if the office is in the competitive service, after the approval of the Civil Service Commission is secured. Positions included under section 504 of the Salary Reform Act of 1962 are excluded from these restrictions, and the restrictions shall be suspended in case of national emergency.

Report

Section 206 requires the President to transmit to the Congress on or before January 1, 1966, a comprehensive report of the operations of the departments and agencies in the executive branch under title II of the bill.

It is expected that the report will contain sufficient information to permit the appropriate committees of the Congress to review the utilization of the new dual-employment and dual-compensation system established by the bill and to review particularly any adverse effects resulting from the repeal of the dual-office-holding restrictions of section 2 of the act of July 31, 1894, as amended (5 U.S.C. 62).

Employment in more than one civilian office

The provisions of section 301 of the bill deal solely with the employment of civilian personnel in more than one civilian office.

Subsection (a) of section 301 will prohibit Government civilian personnel generally from receiving basic compensation from more than one civilian office (as defined in sec. 101(3) of the bill) for more than an

aggregate of 40 hours of work in any calendar week (Sunday through Saturday). The provisions do not prohibit an employee from having a combination of part-time positions collectively equal to an aggregate of 40 hours of work in any calendar week.

The prohibition is on the receipt of basic compensation and will not affect the receipt of otherwise properly earned overtime compensation for work in one position in excess of the hours required for overtime compensation.

Subsection (b) of section 301 authorizes the U.S. Civil Service Commission, subject to the supervision and control of the President, to prescribe regulations under which exceptions to subsection (a) of such section may be made whenever it is determined by appropriate authority that exceptions are warranted on the ground that personal services otherwise cannot be readily obtained.

Subsection (c) relates to the employment of personnel in the legislative branch of the Government. This provision, in conjunction with paragraph (5) of section 301 (d) and (f) and section 402(c) will maintain the present method of employment in the legislative branch. Present law prohibits dual compensation if both positions are within the U.S. Senate, or if either position is in the executive branch. However, one person may be employed in more than one part-time position in the House of Representatives if the basic compensation does not exceed \$2,000 per annum. By repealing the \$2,000 basic compensation limitation which has particular meaning for congressional employment, new problems could arise in regard to employment in the legislative branch. The amendments contained in the present bill would resolve the difficulties by retaining the present employment rules applicable to the Congress.

Subsection (d) of section 301 provides that subsection (a) of such section does not apply to the receipt of compensation in unusual situations which Congress previously has found deserve special treatment, or which were the subject of decisions by the Comptroller General.

Paragraph (1) excepts compensation on a when-actually-employed basis received from more than one consultant or expert position if such compensation is not received for the same hours of the same day.

Paragraph (2) excepts compensation consisting of fees paid on other than a time basis.

Paragraph (3) excepts compensation received by teachers of the public schools of the District of Columbia for employment in a civilian office during the summer vacation period.

Paragraph (4) excepts compensation paid by the Tennessee Valley Authority to employees performing certain part-time or intermittent work in addition to their normal duties when the Authority deems it to be in the interest of efficiency and economy.

Paragraph (5) relates to employment in the legislative branch.

Paragraph (6) excepts compensation paid by the U.S. Coast Guard to employees occupying part-time positions of lamplighters.

Paragraph (7) excepts compensation within the purview of provisions of nine laws, each of which are amended by section 401 (i)-(q) of the bill to provide exceptions from section 301.

Subsection (e) is a savings provision permitting civilian personnel serving on the effective date of section 301 in more than one position under properly authorized appointments to continue to serve under

DUAL EMPLOYMENT AND DUAL COMPENSATION

such appointments and to receive the compensation from such offices without regard to subsection (a) for the duration of the appointment or appointments.

Miscellaneous provisions

Subsections (a) through (h) of section 401 of the bill amend provisions of various laws to eliminate reference to section 212 of the act of June 30, 1932, as amended (5 U.S.C. 59a), which is repealed by section 402(a)(20) of the bill and to insert in lieu thereof reference to section 201 of the bill; that is, section 201 of the new Dual Compensation Act. Thus, Regular officers who may be appointed to the civilian offices covered by such laws will have their retired pay reduced under the provisions of section 201 of the bill, if applicable.

Subsection (a) relates to a member of the Boxing Commission of the District of Columbia (D.C. Code, sec. 3-1226).

Subsection (b) relates to the Office of Civil Defense in the District of Columbia (D.C. Code, sec. 6-1202).

Subsection (c) relates to service as a member of the Peace Corps National Advisory Council (22 U.S.C. 2512(b)).

Subsection (d) relates to certain consultants, members of advising boards, and other persons of the Arms Control and Disarmament Agency (22 U.S.C. 2584).

Subsection (e) relates to retired officers appointed to positions authorized under the Foreign Assistance Act of 1961 (22 U.S.C. 2386(b)).

Subsection (f) relates to the Chairman of the Military Liaison Committee under the Atomic Energy Act of 1954 (42 U.S.C. 2038).

Subsection (g) relates to the Chairman of the Liaison Committee under the National Aeronautics and Space Act of 1958 (42 U.S.C. 2474(d)).

Subsection (h) relates to the members of the U.S. Study Commission on the Savannah, Altamaha, St. Mary's Apalachicola-Chattahoochee, and Perdido-Escambia River Basins and intervening areas (Public Law 85-850).

Subsections (i) through (q) of section 401 amend provisions of various laws to eliminate reference to section 2 of the act of July 31, 1894, as amended (5 U.S.C. 62), and section 6 of the act of May 10, 1916, as amended (5 U.S.C. 58 and 59), relating to dual employment and dual compensation and to insert reference to section 301 of the bill that is, section 301 of the New Dual Compensation Act.

Subsection (i) relates to public school teachers of District of Columbia employed as teachers of night schools and vacation schools (District of Columbia Code, sec. 31-631a).

Subsection (j) relates to certain employees of Library of Congress (2 U.S.C. 162; 5 U.S.C. 60).

Subsection (k) relates to custodial employees of the District of Columbia Board of Education when such employees are performing work in school buildings being used for nonrecreational official purposes by a Federal agency or department of the District of Columbia government (District of Columbia Code, sec. 31-631a).

Subsection (l) relates to crews of vessels under the Secretary of Commerce when assigned duties as instrument observer or recorder and to Federal employees while observing tides or currents, or tending seismograph or magnetographs (33 U.S.C. 873).

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Subsection (m) relates to employees conducting meteorological investigations in the Arctic region (15 U.S.C. 327).

Subsection (n) relates to Department of Defense oversea teachers employed in another position during the school recess period (5 U.S.C. 2358(b)).

Subsection (o) relates to public school teachers of the Canal Zone who also are employed in night or vacation schools (sec. 102, ch. 7, title 2, Canal Zone Code).

Subsection (p) relates to Federal employees performing fieldwork of the Census Bureau in addition to their regular duties (13 U.S.C. 23(b)).

Subsection (q) relates to dual employment of employees in the postal service (39 U.S.C. 3335).

REPEALS

Section 402(a) repeals 38 provisions of law relating to dual employment or dual compensation or which are now obsolete, including the three major laws on these subjects, namely: (1) Section 2 of the act of July 31, 1894, as amended (5 U.S.C. 62), relating to the holding of two offices; (2) section 6 of the act of May 10, 1916 (5 U.S.C. 58), relating to double salaries; and (3) section 212 of the act of June 30, 1932, as amended (5 U.S.C. 59a), relating to the limitation of \$10,000 on the amount of retired pay received for commissioned officer service when combined with Government civilian salary.

Subsection (b) of section 402 contains provisions repealing all other law, general or specific, not repealed by subsection (a) and inconsistent with the provisions of this legislation.

Subsection (c) retains certain provisions of law regarding Senate employment.

EFFECTIVE DATES

Section 403 established an effective date as the first day of the first first month which begins later than the 90th day following the date of enactment of the bill, except for sections 201(g) and 201(h), which shall become effective upon enactment.

The latter two sections relate to Reserve officers and warrant officers.

Section 404 provides that if any provision of this legislation shall be held invalid, the remaining provisions shall not be affected.

COST

The committee was unable to obtain any specific cost information on the amount of overpayments proposed to be waived by subsections (g) and (h) of section 201 of the bill in the cases of certain Reserve officers and warrant officers. Nor is it possible to estimate any additional cost that might be incurred by removal of the \$10,000 dual-compensation limitation of the act of June 30, 1932, in the case of those few remaining officers who have been exempted specifically from the dual-office restriction of the act of July 31, 1894, but not from such \$10,000 limitation.

The committee believes that the payment of the full amount of compensation for a civilian position does not result in additional cost to the Government by reason of the fact that the occupant happens to be a military retiree, whether Reserve or Regular, or officer or enlisted man.

VIEWS OF THE EXECUTIVE BRANCH AND AGENCY
REPORTS

Letter and statement of purpose and justification from the U.S. Civil Service Commission, dated June 15, 1963, and a letter from James E. Webb, Administrator, National Aeronautics and Space Administration, dated January 31, 1964.

U.S. CIVIL SERVICE COMMISSION,
Washington, D.C., June 25, 1963.

HON. LYNDON B. JOHNSON,
President of the Senate.

DEAR MR. PRESIDENT: The Civil Service Commission is submitting for the consideration of the Congress a draft of a proposed bill to simplify, modernize, and consolidate the laws relating to the employment of civilians in more than one position and the laws concerning the civilian employment of retired members of the uniformed services, and for other purposes. Also enclosed are a section analysis of the draft proposed bill and a statement of purpose and justification.

Existing statutes on the civilian employment of retired military personnel and the dual employment of civilians are generally agreed to be harmful, obsolete, unfair, confusing, and difficult to administer. They are harmful, because, for example, they deprive the Government of the services of certain highly trained retired military personnel whose technical skills, frequently acquired at Government expense, are in short supply and are needed in Federal agencies. Their obsolete nature is indicated by the fact that one law, enacted in 1894, was intended originally as a limitation on combined pension and salary but now serves to bar absolutely certain retired military personnel from almost all Government employment. The statutes are unfair, confusing, and difficult to administer in that some categories of retired military personnel may not be employed at all; some may be employed subject to a \$10,000 limitation on receipt of combined civilian salary and retired pay; and some may be employed in any agency without any limitation on combined compensation. Further complicating the picture is the fact that it is often difficult to determine into which category an individual falls, leading to many Comptroller General decisions. Another factor is that a few agencies have been granted exceptions to parts of the law and may employ any person retired from the military service.

The Commission also receives many complaints from employee organizations and civil service employees concerning the advantages possessed by retired military personnel in reductions in force. Some of these complaints are received directly; many are received through Congressmen on behalf of the people they represent.

The problems in administering the laws on civilian employment of retired personnel are further reflected in the introduction in the Congress each year of private bills to relieve employees of debts owed to the United States and incurred by overpayment of military retired pay or civilian salary. The overpayments result from understandable errors in the interpretation of the more than 40 separate provisions of law and the 200-plus Comptroller General decisions which seek to interpret this tangle of statutes.

The proposed legislation would accomplish these things: First, it would help the Government to obtain the best qualified people avail-

able to fill certain of its hard-to-fill civilian positions. We can no longer afford to exclude from consideration for employment retired military personnel who have the highly technical knowledges and skills which are in demand. Second, the draft bill would provide fairer treatment of all categories of retired military personnel. Third, the proposed legislation would provide reasonable safeguards so that the employment of retired military personnel would not unfairly hamper career opportunities for present civilian personnel. Fourth, the bill would consolidate and simplify the present numerous and confusing statutes on dual compensation and dual employment.

The problems involved in the employment of retired military personnel and the dual employment of civilians in the Federal service have been frequently studied over the past several years by Congressional committees and individual Members of Congress, the Civil Service Commission, and other interested Federal agencies. These studies have been extremely helpful in clarifying the issues involved. We believe the enclosed proposed draft bill treats these issues in a manner which is fair to all individuals concerned and best serves the public interest.

An almost identical proposal was introduced in the 87th Congress as S. 3780 at the Commission's request but no action was taken thereon. The current proposal differs substantively from S. 3780 in the following respects:

(1) S. 3780 contained an exemption from the bill's provisions for retired military members whose retirement was based on disability "incurred in combat with an enemy of the United States." This exemption has been changed in the current proposal to include those retired members whose disability results "from an injury or disease received in line of duty as a direct result of armed conflict." This change would extend the exemption to those disabled in the kind of cold war conflicts in which American military personnel are now engaged.

(2) Section 103 of S. 3780 contained amendments to the Veterans' Preference Act which would restrict the veterans' preference benefits to which retired military personnel would be entitled. In the current proposal, a provision has been added to these amendments which would preserve veterans' preference for reservists who become eligible for military retirement, at age 60 subsequent to their employment in the Federal service.

(3) The provisions of section 303(c) of S. 3780, which related to deductions under the retired serviceman's family protection plan, have not been included in the current proposal. It has been determined that deletion of these provisions will result in more consistent treatment of persons covered by the bill.

(4) A provision (sec. 102(g)) has been included in the current proposal to grant retroactive legislative relief to a number of retired temporary warrant officers who, under a recent decision of the Comptroller General, have been found to be employed in the Federal service in violation of the restrictions of the Dual Office Holding Act of 1894.

The Bureau of the Budget advises that from the standpoint of the administration's program there is no objection to the submission of this proposed legislation for the consideration of the Congress.

A similar letter is being sent to the Speaker of the House.
By direction of the Commission.

Sincerely yours,

JOHN W. MACY, Jr., *Chairman.*

STATEMENT OF PURPOSE AND JUSTIFICATION FOR LEGISLATIVE
PROPOSAL TO SIMPLIFY, MODERNIZE, AND CONSOLIDATE THE LAWS
RELATING TO THE EMPLOYMENT OF CIVILIANS IN MORE THAN ONE
POSITION AND THE LAWS CONCERNING THE CIVILIAN EMPLOYMENT
OF RETIRED MEMBERS OF THE UNIFORMED SERVICES, AND FOR
OTHER PURPOSES

PURPOSE

1. To authorize the employment of retired military personnel, and to permit such personnel to receive full civilian pay but to limit retired pay to the first \$2,000 of such retired pay plus one-half of the remainder, if any. The President would be given the authority to grant exceptions to this limitation on combined compensation if it is determined such exceptions are to be necessary in order to meet special or emergency Government employment needs.

2. To authorize a "fresh start" principle with respect to retired military personnel who accept Federal civilian employment. With the exception of those whose retirement is based on disability as a result of armed conflict, or caused by an instrumentality of war in time of war, and of those whose retired pay is based on less than 6 years of continuous full-time active duty, retired military personnel would not receive veterans' preference nor would their military time count in computing leave, retirement, or reduction-in-force retention credits.

3. To continue the policies of exempting certain military personnel disabled in line of duty from the restrictions on employment of retired military personnel. Those retiring with less than 6 years of continuous active duty would also be exempted.

4. To limit civilian employees in the Federal Government to compensation for one full-time position, unless an exception to this restriction is granted by the Civil Service Commission on the basis of Government employment needs.

5. To make uniform, simplify, and consolidate in one law all statutory provisions relating to the Federal civilian employment of retired military personnel and the dual employment of Federal civilian employees.

JUSTIFICATION

CURRENT SITUATION

There are a considerable number of statutes relating to the dual employment and dual compensation of Federal civilian and retired military personnel. The earliest of these was enacted in 1894; the most recent, in 1961. These statutes are complicated: some are overlapping, some are inconsistent, and a number are no longer realistic in the light of current conditions. Because the basic statutes arbitrarily restrict employment and are out of date, many special exceptions have been sought and granted.

The basic intent of the early dual employment and dual compensation laws was not to prohibit entirely the dual employment of civilian employees or the hiring of retired military personnel. The purpose

was primarily to limit such employment to a reasonable extent—reasonable from the points of view of both the Government and the employee. When the present dollar limits were set many years ago, they represented a reasonable annual income for one person; however, because of the differences between today's salary levels and living costs and those of 60 (or even 20) years ago, the restrictions now serve as a bar rather than a limitation. Thus, the present effect of the basic statutes differs markedly from that originally intended.

A second consequence of the rigid limits in the basic laws has been the enactment, over the years, of legislation to meet one special situation or another. While many of these statutes are identified as exceptions to the basic restrictions, they are not necessarily inconsistent with the original purpose of the Congress, which, as mentioned earlier, was to permit dual employment within reasonable limits. The cumulative effect of these various acts of Congress, however, is a body of law that fails to provide a consistent policy for the employment of Federal civilian personnel in more than one capacity or for the hiring of retired military personnel.

Employment of retired military personnel

The present restrictions on the employment of retired military personnel in civilian positions are inconsistent and inequitable and have no relation to the Government's hiring needs. Various categories of military retirees are exempted from the prohibitions and restrictions. All enlisted men, certain commissioned officers, and some warrant officers retired from military service may now be hired for Federal civilian jobs without restriction on the receipt of retired pay. At present, certain Regular officers and warrant officers retired for age or length of service are the only retirees who cannot hold Federal positions if either their retired pay or the salary of the position is \$2,500 a year or more. Disabled Regular officers whose disability was not incurred in combat or caused by an instrumentality of war in time of war are limited to a maximum combined rate of \$10,000 a year for Federal civilian salary and military retired pay.

Among the retired officers still subject to restrictions are many who possess special skills that are particularly valuable to the Government. Under present law, these skills, often developed at Government expense, are available and attracted to private industry but not to the Federal civil service.

The need for revision of the present restrictions is of long standing and has been widely recognized in both the legislative and executive branches. In his last budget message to the Congress, President Eisenhower included this statement:

"A number of outmoded and inconsistent statutes now regulate the employment and compensation of retired military personnel in civilian positions with the Government. We should replace this legal maze with a single rational statute which would eliminate unnecessary dual payments, adequately safeguard the civilian career service, and permit the Government to hire members of this group possessing needed skills under conditions that are fair to the individual."

The Subcommittee on National Policy Machinery of the Senate Committee on Government Operations in its report of February 28, 1961, on organizing for national security stated:

"An enormous Government investment has been poured into the training and experience of an outstanding retired military officer.

In the present state of national need, this investment cannot be permitted to be thrown away. The dual compensation laws should be reviewed and amended."

Dual employment of civilians

The present restrictions on dual civilian employment also hamper effective Government manpower utilization. The Postmaster General may employ for postal duties, in addition to their regular duties, custodial employees who are under the jurisdiction of the General Services Administration at Federal buildings occupied in any part by the postal service, but he is prohibited from hiring other employees of other agencies for part-time work during the Christmas rush. The Agriculture and Interior Departments cannot hire critically needed and available Federal employees as emergency firefighters. These are avoidable difficulties that should be eliminated.

Problems in administering present laws

Administrative difficulties under the present laws impede efficient Government management. The complexity of the statutes make economy of administration impossible. Agencies encounter continual problems in their efforts to make sure that existing restrictions are observed. The cost involved in attempting to reconcile the various statutes as applied to specific cases is known to be large, even though it cannot be accurately estimated for any given period of time. Numerous decisions of the Comptroller General have been required. Appointing, payroll, certifying, and disbursing officers must be conversant with a large body of highly complicated law.

Injustices to individuals have also occurred because of misinformation and erroneous conceptions of what the law requires. Private bills have been introduced in Congress to relieve cases of unusual hardship that have resulted from such situations.

At the present time, a situation exists where it may be necessary because of recent legal decisions, unless legislative relief is obtained, retroactively to subject approximately 500 retired commissioned Army of the United States officers and an unknown number of retired commissioned Air Force officers to the dual compensation restrictions of section 12 of the Economy Act of 1932. Similarly, under a recent Comptroller General decision, a number of retired temporary warrant officers have been found to be serving in Federal civilian positions in violation of the Dual Office Holding Act of 1894.

Summary

Thus, the current situation is that the dual compensation-dual employment laws are inequitable, are difficult to administer, and prevent the Government from obtaining certain well-qualified personnel for hard-to-fill positions.

PROPOSED LEGISLATION

Employment of retired military personnel

The proposed law would repeal the statutory provisions which, in effect, prohibit certain categories of retired Regular officers from holding a Federal civilian job. The policy, expressed in several statutes, of limiting the amount of combined income from military retirement and civilian pay would be continued but would be modified to establish consistent treatment for all the various categories of retired mili-

tary personnel. Limitations on combined compensation would be reasonable in terms of present salary levels and dollar values.

The proposed law would also establish a "fresh start" principle for retired military personnel employed in Federal civilian jobs. Since persons retiring from the military service have generally realized retirement benefits based on a military career, it seems desirable and equitable for them to start Federal civilian careers on the same basis as others who are also entering the civil service for the first time. Therefore, the bill would (a) require that their prior military service not be counted in computing length of service for reduction-in-force, leave, and retirement purposes, and (b) withhold veterans' preference. The purpose of the Veterans' Preference Act of 1944 was primarily to provide preference for civil service employment to those veterans who had interrupted their regular civilian careers to enter military service during time of war.

The proposed law would continue the principle of treating separately those retired military personnel whose retirement was based on disability resulting from an injury or disease received in line of duty as a direct result of armed conflict, or caused by an instrumentality of war and incurred in line of duty during a period of war. Such persons would not be subject to the limitations on combined compensation, would continue to receive veterans' preference, and would continue to receive credit for length of military service in computation of retention credits for reduction-in-force purposes. Similar treatment would be accorded retired military personnel who retire with less than 6 years of continuous full-time active duty. Such persons are typically (1) those whose military careers were cut short because of physical disability, or (2) those who were in the military service during a time of emergency and who continued to participate in the reserve program after they returned to civilian life.

In view of the fact that there are certain occupations for which it is difficult to obtain well-qualified personnel, the proposed law would give the President authority to grant exceptions to the above-mentioned limitations on combined compensation. Exceptions could also be granted to meet emergency situations.

Those retired military personnel who are already employed in the Federal service would retain their present rights with regard to veterans' preference and credit for military service. They could elect either to remain subject to the present limitations on compensation or to come under the provisions of the proposed law.

The bill would also provide relief to a large number of retired commissioned and warrant officers holding temporary appointments in the Army and Air Force of the United States who are faced with the possibility of returning to the Government overpayments of military retired pay or civilian salary required by recent decisions that such retired members should have been considered subject to the restrictions (1) prescribed by section 212 of the Economy Act of 1932, in the case of the retired commissioned officers, and (2) prescribed in the act of July 31, 1894, in the case of the retired warrant officers.

It is recognized that there are some controversial issues involved in the employment of retired military personnel in Federal civilian positions. Some people maintain that a retired military person has earned his military retirement pay as a result of his military service; therefore, if he is employed by the Government in a civilian capacity

DUAL EMPLOYMENT AND DUAL COMPENSATION

he is entitled to both his full military retirement pay and the regular civilian pay for the position. Others believe that no person should receive retired pay and regular pay from a single employer at the same time. The proposed bill represents what seems to be a reasonable middle ground between these two points of view, by providing that \$2,000 of the retired pay, the approximate average non-disability retired pay received by enlisted personnel, plus $\frac{1}{2}$ of the remainder may be paid along with the regular pay for the civilian position.

This restriction on combined compensation would apply to most retired military personnel, including a number of categories to which no such restrictions now apply, but not to those whose retirement is based on disability resulting from armed conflict, or caused by an instrumentality of war in time of war, or to those whose retired pay is based on less than 6 years of continuous full-time active duty.

Some people also maintain that retired military personnel have an unfair advantage over other civilian employees in a reduction in force by reason of veterans' preference eligibility and credit for years of military service. This advantage had been eliminated by the "fresh start" principle explained above.

Dual employment of civilians

Those portions of the bill which deal with employment of civilian employees in more than one position may be less controversial but are no less important. The proposed law would limit civilian employees to one full-time job; part-time employees would be limited to a combination of part-time positions equaling one full-time position. The Commission would be authorized to grant exceptions to these restrictions when the Government could not otherwise readily obtain the needed services. This authority to grant exceptions would be used to meet situations of the kind which now have to be expected by statute. An example is the exception, granted by law, which permits District of Columbia teachers to accept additional compensation for services rendered in connection with the operation of night schools in the public schools of the District of Columbia.

Summary

In summary, the proposed legislation would make an important source of skilled manpower available to the Government, would eliminate inequities in the treatment of retired military personnel, and would provide a single modern statute in place of a collection of overlapping and outdated laws.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION,
OFFICE OF THE ADMINISTRATOR,
Washington, D.C., January 31, 1964.

HON. RALPH W. YARBOROUGH,
Chairman, Subcommittee on Civil Service,
Committee on Post Office and Civil Service,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Reference is made to the hearings conducted by the Subcommittee on Civil Service of the Senate Committee on Post Office and Civil Service on December 12, 1963, on dual compensation, S. 1912, and including consideration of the form of

DUAL EMPLOYMENT AND DUAL COMPENSATION

the dual compensation bill, H.R. 7381, as it now appears on the calendar of the House of Representatives.

The National Aeronautics and Space Administration favors the proposed legislation in order (1) to permit the Government to capitalize on certain skills, competence, and experience in the areas of aerospace science and technology possessed by a sizable group of military personnel who have completed their active duty careers and (2) to correct certain inequities in the present statutes pertaining to the employment of these personnel by the Government.

Many of the abilities and skills and much of the knowledge valuable to NASA are possessed by certain military personnel who have been closely associated with missile and military space programs and aeronautics. Collectively, this body of men, educated and skilled in aerospace science and technology, represents a reservoir of knowledge and experience which constitutes a national asset of inestimable value. Unless a substantial portion of this group of specialists can be attracted to remain in the Government, this asset will not be available directly to the Government's space program.

As of December 1, 1963, 254 active duty military officers were detailed to NASA from the Department of Defense for a 2- to 3-year tour of duty. Attached is a list of those officers.

The officers are primarily engineers, physical scientists, and administrative specialists whose backgrounds are directly pertinent to NASA's work. Of the 254 officers, 43 are of senior rank, and are performing key technical or management assignments. The senior grade officers in particular represent the type of personnel NASA desires to employ because of their specialized education and experience. The number of personnel so employed would be probably fewer than 50 in a fiscal year; however, each selection would represent the utilization of the very specialized talent and would significantly benefit the national space program.

The NASA has under its basic act, authority to employ retired military personnel without regard to the Dual Office Act of 1894. A similar exemption would be provided on a Government-wide basis by S. 1912 and H.R. 7381 as carried on the calendar in the House. In view of the fact that the dual office restriction does not now apply to the employment of retired military personnel by the NASA, this report addresses itself only to the dual compensation restrictions applicable to such employment under section 212 of the Economy Act of 1932.

The preferential treatment accorded most retired Reserve officers as compared to most retired Regulars under the current dual compensation law is felt within NASA. To permit one to accept his retirement pay and not the other is unfair. There appears to be no valid reason for this distinction.

It is understood that Mr. J. Macy, Chairman of the Civil Service Commission, recommended at the hearing on December 12, 1963, that the amount of retirement pay to be retained by retired officers in Government positions be raised from the first \$2,000 of such pay plus one-half of the remainder, as presently stated in section 102(a) of S. 1912, to the first \$2,500 of such pay plus one-half of the remainder. The National Aeronautics and Space Administration endorses this recommendation.

NASA needs technical personnel highly trained and experienced in the space sciences and engineering. Retired officers meeting these

criteria would be qualified to fill vacancies in NASA carrying salaries well above the level at which retirement pay is forfeited under the existing dual compensation law. Under these circumstances, NASA as a rule cannot successfully compete with industry for the services of these technically competent and experienced people.

The following cases are cited as typical of the problems being faced by NASA in attempting to fill key positions by employing retired military personnel competent and experienced in the aerospace field:

(1) A few months ago, a colonel retired from the U.S. Air Force after 23 years of military service including program management, commander of the test wing at Cape Kennedy during the critical Thor-Atlas period, and test commander at the Special Weapons Center. He was offered \$20,000 as an Assistant Director of NASA's Manned Spacecraft Center in Houston. He declined in favor of a \$27,000 position with Space Technology Laboratories in which position he would still be able to draw his \$7,000 military retirement pay. Dr. Walter Williams, who was then our Deputy Director at Houston and is now here at headquarters, believes the colonel would have accepted the NASA position if he could have retained his retirement pay.

(2) Recently a Navy captain, who was on duty at NASA's Manned Spacecraft Center in Houston as a branch chief, and who had served previously as range operations officer at Point Mugu, Calif., and in space surveillance at Dahlgren, Va., retired from the Navy. His experience was appropriate to work in the development of our Apollo tracking network, including coordination with the Jet Propulsion Laboratory, the Goddard Space Flight Center, and military tracking systems. Prior to retirement, he indicated an interest in a position with NASA. However, he accepted a position with private industry because NASA was unable to give him a position at the \$18,000 to \$20,000 level, which would have compensated in some measure for the loss of his retirement pay.

(3) A recently retired Navy captain, whose final year of active duty was served on detail at NASA headquarters as a division director, has accepted a most important NASA position as Director of Manned Space Flight Field Center Development, in anticipation of relief from the limitations imposed by the present dual compensation law. Were it not for the present law, he would be eligible to receive more than \$6,000 retirement pay. With his qualifications, his services have been and continue to be sought by industry at a high level salary. While he would like to continue in the NASA program, he feels that he cannot afford to accept the financial penalty indefinitely.

(4) Similarly, a senior Army colonel who has been serving as program manager for the Saturn I/IB programs at the George C. Marshall Space Flight Center, Huntsville, Ala., has retired and has accepted civilian employment with NASA in anticipation of passage of this legislation.

(5) A Navy captain with over 30 years of service and extensive management experience in rocket testing and aerospace sciences is currently manager of the NASA Mississippi test operations, Gainesville, Miss. He faces statutory retirement in 1964. He doubts whether he can accept the penalty of forfeiting over \$9,500 retirement pay for civilian employment with NASA, although he has expressed a strong desire to remain with the NASA program.

(6) A U.S. Air Force colonel who is currently occupying a key position at our George C. Marshall Space Flight Center at Huntsville, Ala., is an additional example of a highly qualified officer who would like to continue in the NASA program if the financial penalty is removed.

(7) NASA has in its employ at the present time several senior retired Regular military personnel. One is on the Deputy Associate Administrator level, which is the highest level of general executives within the agency. These officers have served in industry at much higher combined industry and military retirement pay than they are presently receiving at NASA. Like many civilian personnel in the higher executive brackets, they are willing to forgo, for a while at least, the attraction of the higher salary of industry in exchange for the experience and the personal satisfaction of participating firsthand in the Nation's space program. However, NASA can expect to lose the services of some of these men after a period of time, if they must continue to forfeit all or most of their retirement pay. This financial penalty in some cases approaches one-half to two-thirds of their salaries at NASA.

Much of the specialized knowledge and managerial experience which are required by NASA are possessed only by military personnel who have been closely associated for an extended period with missile and military space programs. There is an urgent need within NASA to draw on this source of experienced talent to fill some of the higher bracket executive positions which NASA has been unable to fill from other sources. In fact, NASA has recently addressed requests to the U.S. Air Force for the temporary assignment to NASA of two active duty officers at the brigadier general/colonel level to fill managerial positions in the manned space flight program. It is expected that it will be necessary in the near future to request three more active duty officers of these ranks, experienced in program management.

At the time that the hearings on H.R. 7381 were being held, letters from the three NASA Center Directors most heavily involved in the manned space flight program, expressing their strong interest in the provisions of the legislation as a means of assisting them in meeting their key personnel problems were made a part of the official record. Copies of these letters are attached.

In the light of all of the foregoing discussion, the National Aeronautics and Space Administration recommends that S. 1912 be enacted.

The Bureau of the Budget has advised that there is no objection from the standpoint of the administration's program, to the presentation of the report for the consideration of the committee.

Sincerely yours,

JAMES E. WEBB, *Administrator.*

Other junior grade military detailees occupying positions within NASA

Installation	Army ranks or equivalents				Totals
	2d lieutenant	1st lieutenant	Captain	Major	
Headquarters.....			2	5	7
Ames Research Center.....	6	7			13
Flight Research Center.....	1	1	2		4
Goddard Space Flight Center.....	10	4		1	15
Jet Propulsion Laboratory.....	13	7			20
Lanley Research Center.....	28	3		1	32
Launch Operations Center.....				2	2
Marshall Space Flight Center.....	11	17	4	6	38
Wallops Station.....	1	1			2
Manned Spacecraft Center.....	7	3	13	13	36
Lewis Research Center.....	17	23	1	1	42
Total.....	94	66	22	29	211

Roster of senior grade (lieutenant colonel and above) military detailees occupying positions with NASA

Name - Headquarters	Years of service	Grade	Service	Position title	Reason background was appropriate for NASA work
Bathurst, Raymond J.....	21	Lieutenant colonel	USAF	Program resources specialist, Office of Manned Space Flight.	M.B.A., management of R. & D.; 10 years' experience in R. & D. programming.
Berry, Serret L.	28	do	USAF	Program management assistant, Office of Manned Space Flight.	5 years' experience in R. & D. facility engineering and planning.
Chetlin, Norman D.....	18	Com-mander	USN	Marine transportation specialist, Office of Administration.	M.B.A.; 5 years' experience in marine transportation.
Cox, Sidney S.....	18	do	USN	Technical management specialist, Office of Advanced Research and Technology.	M.S., aeronautics and space science; 15 years' experience in aeronautics and weapons engineering.
Dougherty, John J.....	18	do	USN	Assistant Director, Communications Systems, Office of Space Sciences and Applications.	M.S., engineering, electronics; 18 years' experience in industrial electronics engineering.
Hairy, Richard L.....	18	Lieutenant colonel	USAF	Staff engineer, Office of Space Sciences and Applications.	Ph. D., electrical engineering; 15 years' engineering experience.
Holcomb, John K.....	20	Captain	USN	Assistant Director, Launch Operations, Office of Manned Space Flight.	M.S., aeronautics and space science; 20 years' experience in aeronautical and weapons engineering.
Hull, Harris B.....	21	Brigadier general	USAF	Assistant to Assistant Administrator for Technology Utilization and Policy Planning.	Extensive experience in news media.
Kelly, Albert J.....	18	Com-mander	USN	Director of Electronics and Control, Office of Advanced Research and Technology.	Ph. D., aeronautics and space science; 18 years' experience in aeronautical and weapons engineering.
Kahan, Martin J.B.....	22	Captain	USN	Special assistant, Office of Manned Space Flight.	M.A., business administration.
Kier, Kenneth J.....	21	Com-mander	USN	Chief, Secretariat Services Branch, Office of the Administrator.	
Loeffler, Harry H.....	20	Captain	USN	Director, Special Operations, Office of Construction.	M.S. in civil engineering with 20 years' related experience.
Powers, John A.....	19	Lieutenant colonel	USAF	Technical assistant to Director, Office of Special Services.	18 years' experience in public information.
Friedland, Rueben B.....	17	Com-mander	USN	Chief, Flight Crew Operations, Office of Manned Space Flight.	M.S., engineering; 10 years' experience in weapons engineering.
Regia, Edward R.....	21	Lieutenant colonel	USAF	Technical assistant to Director of Biotechnology and Human Research, Office of Advanced Research and Technology.	5 years' experience in aerospace medicine from R. & D. standpoint. Not an M.D.
Scherer, Leo R.....	20	Captain	USN	Program officer, Surveyor program, Office of Space Sciences and Applications.	M.S., aeronautics and space science; 20 years' experience in aeronautical and weapons engineering.
Solohub, Vincent J.....	26	Colonel	USA	Deputy Director, Office of Construction.	M.S., civil engineering; 26 years' experience in civil engineering.
Smith, Ray F.....	21	Com-mander	USN	Long-range plans officer, Office of Manned Space Flight.	M.S., E.E.
Van Ness, Harper E.....	21	Captain	USN	Assistant Director for Space Flight Operations, Office of Manned Space Flight.	M.S., aeronautics and space science; 21 years' experience in aeronautical and weapons engineering.
Voris, Frank B.....	27	do	USN	Chief, Human Research, Office of Advanced Research and Technology.	M.D., naval aviator; experience in aviation medicine and biological sciences.
Warren, Robert E.....	28	Colonel	USA	Assistant Director, Communications Systems, Office of Space Sciences and Applications.	Ph. D., physics.
Wise, Henry G.....	21	Lieutenant colonel	USAF	Branch Chief, Mercury, Gemini, and Apollo programs, Office of Manned Space Flight.	M.S., psychology; 10 years' experience in research and development.

Young, Robert P.	Colonel	USA	Executive officer to Administrator.	M.S., civil engineering; extensive experience as staff officer.
AMES RESEARCH CENTER				
Fugitt, Charles H.	Commander.	USN	AST, life sciences program management, Office of Assistant Director for Life Sciences.	Ph. D. biophysics; B.S., physical chemistry; 13 years' experience in research and development activities.
GEORGE C. MARSHALL SPACE FLIGHT CENTER				
Brouns, Robert C.	Lieutenant colonel.	USAF	AST, technical management.	M.S., aeronautical engineering; 10 years' experience in research and development.
Fellows, Walter S.	Colonel.	USAF	AST, launch vehicle project management.	10 years' experience in research and development; 3 years prior to NASA with Aircraft Nuclear Propulsion Office and Atomic Energy Commission.
Fortune, William C.	Captain.	USN	Manager, Mississippi test operations, Gainesville, Miss.	M.S., aeronautics and space science; 30 years' experience in aeronautical and weapons engineering.
James, Lee B.	Colonel.	USA	AST, launch vehicle project management.	Extensive experience in R. & D. management with Army Ballistic Missile Agency.
Kessler, Robert R.	do.	USA	do.	M.S., electrical engineering; 24 years' experience in research and development.
Palmer, Charles R.	Lieutenant colonel.	USA	AST, experimental facilities and equipment.	Extensive experience in R. & D. facility engineering including 1 year as liaison officer with NASA.
LAUNCH OPERATIONS CENTER				
Bagnulo, Aldo H.	Colonel.	USA	do.	M.S., civil engineering with 25 years' related experience. Jupiter and Redstone project officer at Atlantic Missile Range prior to NASA.
Clark, Raymond L.	Lieutenant colonel.	USA	AST, technical management.	Experience in range operations.
Hicks, Ralph E.	do.	USAF	AST, flight range coordination, project officer, NASA Test Support Office.	B.S., E.E.; 10 years' experience in R. & D. Director of Advanced Weapons Systems at Headquarters, U.S. Air Force.
Petrone, Rocco A.	do.	USA	AST, launch operations project management.	Specialized experience in Redstone range management.
MANNED SPACECRAFT CENTER				
Brady, Aubrey L.	do.	USAF	AST, radiology and radiation biology, Crew Systems Division.	B.S., engineering, management of R. & D.; 10 years' experience with Armed Forces Special Weapons Command.
Glenn, John H.	do.	USMC	Astronaut.	M.D.; extensive experience in aerospace medicine and astronautics with Air Force Systems Command.
Hessburg, Ruitus R.	Colonel.	USAF	Special assistant to Chief, Crew Systems Division, for Medical Programs.	M.D., experience in aviation medicine.
Gordon, John J.	Commander.	USN	Flight surgeon, aerospace medical operations.	M.D., extensive experience in aerospace medicine and aviation medicine.
Morris, David P.	do.	USN	Head, Medical Operations Sections, Crew Systems Division, with duty station, Cape Kennedy, Fla.	
Schirre, Walter M., Jr.	do.	USN	Astronaut.	
Shepard, Alan B.	do.	USN	do.	
Wakeland, William R.	Captain.	USN	AST, technical management, Gemini project, Engineering Branch.	M.S., E.E., 20 years' experience in weapons engineering.
White, Arthur R.	Lieutenant colonel.	USAF	Aerospace engineer, crew safety systems.	B.S., E.E., 10 years' R. & D. safety experience.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law in which no change is proposed is shown in roman, existing law proposed to be omitted is enclosed in brackets, and new matter is printed in *italics*):

SECTION 12 OF THE VETERANS' PREFERENCE ACT OF 1944 (5 U.S.C. 861)

Sec. 12. (a) In any reduction in personnel in any civilian service of any Federal agency, competing employees shall be released in accordance with Civil Service Commission regulations which shall give due effect to tenure of employment, military preference (*subject to subsection (b) of this section*), length of service, and efficiency ratings: *Provided, That, subject to subsection (c) of this section*, the length of time spent in active service in the armed forces of the United States of each such employee shall be credited in computing length of total service: *Provided further*, That preference employees whose efficiency ratings are "good" or better shall be retained in preference to all other competing employees and that preference employees whose efficiency ratings are below "good" shall be retained in preference to competing nonpreference employees who have equal or lower efficiency ratings: *And provided further*, That when any or all of the functions of any agency are transferred to, or when any agency is replaced by, some other agency, or agencies, all preference employees in the function or functions transferred or in the agency which is replaced by some other agency shall first be transferred to the replacing agency, or agencies, for employment in positions for which they are qualified, before such agency, or agencies, shall appoint additional employees from any other source for such positions.

(b) *Notwithstanding any other provision of this Act, an employee who is a retired member of any of the uniformed services included under section 2 of this Act shall be considered a preference employee for the purposes of subsection (a) of this section only if-*

(1) *his retirement was based on disability (A) resulting from injury or disease received in line of duty as a direct result of armed conflict or (B) caused by an instrumentality of war and incurred in the line of duty during a period of war (as defined in sections 101 and 301 of title 38, United States Code); or*

(2) *his service does not include twenty or more years of full-time active service (regardless of when performed but not including periods of active duty for training); or*

(3) *immediately prior to the effective date of this subsection, he was employed in a civilian office to which this Act applies and, on and after such date, he continues to be employed in any such office without a break in service of more than thirty days.*

(c) *In computing length of total service, an employee who is a retired member of any of the uniformed services shall be given credit for*

(1) *the length of time in active service in the armed forces during any war, or in any campaign or expedition (for which a campaign badge has been authorized); or*

(2) if he is included under clause (1), (2), or (3) of subsection (b) of this section, the total length of time in active service in the armed forces.

SECTION 203(a) OF THE ANNUAL AND SICK LEAVE ACT OF
1951 (5 U.S.C. 2062(a))

ANNUAL LEAVE

SEC. 203. (a) Officers and employees to whom this title applies shall be entitled to annual leave with pay which shall accrue as follows—

- (1) one-half day for each full biweekly pay period in the case of officers and employees with less than three years of service,
- (2) three-fourths day for each full biweekly pay period (except that the accrual for the last full biweekly pay period in the year shall be one and one-fourth days) in the case of officers and employees with three but less than fifteen years of service, and
- (3) one day for each full biweekly pay period in the case of officers and employees with fifteen years or more of service.

Except as otherwise provided in this subsection, in [In] determining years of service for the purposes of this subsection, there shall be included all service creditable under the provisions of section [5] 3 of the Civil Service Retirement Act [of May 29, 1930, as amended,] for the purposes of an annuity under such Act and the determination of the period of service rendered may be made upon the basis of an affidavit of the employee. Active military service of a retired member of any of the uniformed services is not creditable in determining years of service for the purpose of this subsection unless—

- (1) *his retirement was based on disability (A) resulting from injury or disease received in line of duty as a direct result of armed conflict or (B) caused by an instrumentality of war and incurred in the line of duty during a period of war (as defined in sections 101 and 301 of title 38, United States Code); or*
- (2) *immediately prior to the effective date of this sentence, he was employed in a civilian office to which this Act applies and, on and after such date, he continued to be employed in any such office without a break in service of more than thirty days; or*
- (3) *such service was performed in the armed forces during any war, or in any campaign or expedition (for which a campaign badge has been authorized). In the case of an officer or employee who is not paid on the basis of biweekly pay periods, the leave provided by this title shall accrue on the same basis as it would accrue in such officer or employee were paid on the basis of biweekly pay periods.*

**SECTION 18 OF THE ACT OF DECEMBER 20, 1944, AS ADDED
BY SECTION 2 OF THE ACT OF AUGUST 19, 1950 (64 STAT.
466; D.C. CODE, SEC. 2-1226)**

Sec. 18. Notwithstanding the limitation of any other law or regulation to the contrary, any person heretofore or hereafter appointed as a member of the Commission may receive the compensation authorized by this Act to be paid to such member, as well as any retired pay, retirement compensation, or annuity to which such member may be entitled on account of previous service rendered to the United States or District of Columbia governments, *subject to section 201 of the Dual Compensation Act of 1963.*

**SECOND PARAGRAPH OF SECTION 2 OF THE ACT OF AUGUST
11, 1950 (64 STAT. 438; D.C. CODE, SEC. 6-1202)**

Notwithstanding the limitation of any law, there may be employed in such Office of Civil Defense any person who has been retired from any of the **[Armed Forces]** *uniformed services* of the United States or any office or position in the Federal or District governments, and *except as hereinafter provided*, while so employed in such Office of Civil Defense any such retired person may receive the compensation authorized for such employment or the **[retired pay,]** retirement compensation **[,]** or annuity, whichever he may elect, and upon the termination of **[his employment in such Office of Civil Defense,]** *such employment*, he shall be restored to the same status as a retired officer or employee with the same **[retired pay,]** retirement compensation **[,]** or annuity to which he was entitled before having been employed in such Office of Civil Defense. *While any person who has been retired from any of the uniformed services of the United States is so employed in such Office of Civil Defense, he may receive the compensation authorized for such employment and his retired or retirement pay, subject to section 201 of the Dual Compensation Act of 1963.*

**SECTION 13(b) OF THE PEACE CORPS ACT (75 STAT. 619;
22 U.S.C. 2512(b))**

EXPERTS AND CONSULTANTS

SEC. 13. (a) * * *

(b) Service of an individual as a member of the Council authorized to be established by section 12 of this Act or as an expert or consultant under subsection (a) of this section shall not be considered as service or employment bringing such individual within the provisions of section 281, 283, or 284 of title 18 of the United States Code, or of section 190 of the Revised Statutes (5 U.S.C. 99), or of any other Federal law imposing restrictions, requirements, or penalties in relation to the employment of persons, the performance of service, or the payment or receipt of compensation in connection with any claim, proceeding, or matter involving the United States Government, except insofar as such provisions of law may prohibit any such individual from receiving compensation in respect of any particular matter in which such

individual was directly involved in the performance of such service; nor shall such service be considered as employment or holding of office or position bringing such individual within the provisions of section 13 of the Civil Service Retirement Act, as amended (5 U.S.C. 2263), [section 212 of the Act of June 30, 1932, as amended (5 U.S.C. 59a),] section 872 of the Foreign Service Act of 1946, as amended, or any other law limiting the reemployment of retired officers or employees or governing the simultaneous receipt of compensation and retired pay or annuities, *subject to section 201 of the Dual Compensation Act of 1963.*

SECTION 44 OF THE ARMS CONTROL AND DISARMAMENT ACT (75 STAT. 636; 22 U.S.C. 2584)

CONFLICT OF INTEREST AND DUAL COMPENSATION LAWS

SEC. 44. The members of the General Advisory Committee created by section 26 of this Act, and the members of the advisory boards, the consultants, and the individuals of outstanding ability employed without compensation, all of which are provided in section 41 of this Act, may serve as such without regard to the provisions of section 281, 283, 284, or 1914 of title 18 of the United States Code, or of section 190 of the Revised Statutes (5 U.S.C. 99), or of any other Federal law imposing restrictions, requirements, or penalties in relation to the employment of individuals, the performance of services, or the payment or receipt of compensation in connection with any claim, proceeding, or matter involving the United States Government, except insofar as such provisions of law may prohibit any such individual from receiving compensation from a source other than a nonprofit educational institution in respect of any particular matter in which the Agency is directly interested. Nor shall such service be considered as employment or holding of office or position bringing such individual within the provisions of section 13 of the Civil Service Retirement Act (5 U.S.C. 2263), [section 212 of the Act of June 30, 1932, as amended (5 U.S.C. 59a),] or any other Federal law limiting the reemployment of retired officers or employees or governing the simultaneous receipt of compensation and retired pay or annuities, *subject to section 201 of the Dual Compensation Act of 1963.*

SECTION 626(b) OF PART III OF THE ACT APPROVED SEPTEMBER 4, 1961 (75 STAT. 451; 22 U.S.C. 2386(b))

SEC. 626. EXPERTS, CONSULTANTS, AND RETIRED OFFICERS.—(a)
* * *

(b) Service of an individual as an expert or consultant under subsection (a) of this section shall not be considered as service or employment bringing such individual within the provisions of section 281, 283, or 284 of title 18 of the United States Code, or of section 190 of the Revised Statutes (5 U.S.C. 99), or of any other Federal law imposing restrictions, requirements, or penalties in relation to the employment of persons, the performance of services, or the payment or receipt of compensation in connection with any claim, proceeding,

or matter involving the United States Government, except insofar as such provisions of law may prohibit any such individual from receiving compensation in respect of any particular matter in which such individual was directly involved in the performance of such service. Nor shall such service be considered as employment or holding of office or position bringing such individual within the provisions of section 13 of the Civil Service Retirement Act, as amended (5 U.S.C. 2263), [section 212 of Public Law 72-212, as amended (5 U.S.C. 59a),] section 872 of the Foreign Service Act of 1946, as amended, or any other law limiting the reemployment of retired officers or employees or governing the simultaneous receipt of compensation and retired pay or annuities, *subject to section 201 of the Dual Compensation Act of 1963.*

SECTION 28 OF THE ATOMIC ENERGY ACT OF 1954 (68 STAT. 926; 42 U.S.C. 2038)

SEC. 28. APPOINTMENT OF ARMY, NAVY, OR AIR FORCE OFFICERS.—Notwithstanding the provisions of any other law, any active officer of the Army, Navy, or Air Force may serve as Director of the Division of Military Application without prejudice to his commissioned status as such officer. Any such officer serving as Director of the Division of Military Application shall receive in addition to his pay and allowances, including special and incentive pays, an amount equal to the difference between such pay and allowances, including special and incentive pays, and the compensation prescribed in section 25. Notwithstanding the provisions of any other law, any active or retired officer of the Army, Navy, or Air Force may serve as Chairman of the Military Liaison Committee without prejudice to his active or retired status as such officer. [Any such officer serving as Chairman of the Military Liaison Committee shall receive, in addition to his pay and allowances, including special and incentive pays, or in addition to his retired pay, an amount equal to the difference between such pay and allowances, including special and incentive pays, or between his retired pay, and the compensation prescribed for the Chairman of the Military Liaison Committee.] *Any such active officer serving as Chairman of the Military Liaison Committee shall receive, in addition to his pay and allowances, including special and incentive pays, an amount equal to the difference between such pay and allowances, including special and incentive pays, and the compensation fixed for such Chairman. Any such retired officer serving as Chairman of the Military Liaison Committee shall receive the compensation fixed for such Chairman and his retired pay, subject to section 201 of the Dual Compensation Act of 1963.*

SECTION 204(d) OF THE NATIONAL AERONAUTICS AND
SPACE ACT OF 1958 (72 STAT. 432; 42 U.S.C. 2474(d))

CIVILIAN-MILITARY LIAISON COMMITTEE

SEC. 204. (a) * * *

* * * * *

(d) Notwithstanding the provisions of any other law, any active or retired officer of the Army, Navy, or Air Force may serve as Chairman of the Liaison Committee without prejudice to his active or retired status as such officer. [The compensation received by any such officer for his service as Chairman of the Liaison Committee shall be equal to the amount (if any) by which the compensation fixed by subsection (a)(1) for such Chairman exceed his pay and allowances (including special and incentive pays) as an active officer, or his retired pay.] *Any such active officer serving as Chairman of the Liaison Committee shall receive, in addition to his pay and allowances, including special and incentive pays, an amount equal to the difference between such pay and allowances, including special and incentive pays, and the compensation fixed by subsection (a)(1) for such Chairman. Any such retired officer serving as Chairman of the Liaison Committee shall receive the compensation fixed by subsection (a)(1) for such Chairman and his retired pay, subject to section 201 of the Dual Compensation Act of 1963.*

SECTION 3(b)(1) OF THE ACT OF AUGUST 28, 1958 (72 STAT.
1091; PUBLIC LAW 85-850)

SEC. 3. (a) * * *

(b) The Commission shall be composed of eleven members appointed by the President as follows:

(1) One member, who shall serve as Chairman, and who shall be a resident from the area comprising the Savannah, Altamaha, Saint Marys, Apalachicola-Chattahoochee, and Perdido-Escambia River Basins (and intervening areas) embraced within the States referred to in the first section of this Act and who shall not, during the period of his service on the Commission, hold any other position as an officer or employee of the United States, except that a retired military officer or a retired Federal civilian officer or employee may be appointed under this Act without prejudice to his retired [status, and he shall receive compensation as authorized herein in addition to his retired pay or annuity, but the sum of his retired pay or annuity and such compensation as may be payable hereunder shall not exceed \$12,000 in any one calendar year.] *status. A retired Federal civilian officer or employee appointed under this Act shall receive compensation as authorized herein in addition to his annuity, but the sum of his annuity and such compensation as may be payable hereunder shall not exceed \$12,000 in any one calendar year. A retired military officer appointed under this Act shall receive compensation, as authorized herein and his retired pay, subject to section 201 of the Dual Compensation Act of 1963;*

**SECTION 9 OF THE ACT OF OCTOBER 6, 1917 (40 STAT. 384;
D.C. CODE, SEC. 31-631)**

SEC. 9. [That section six of the legislative, executive, and judicial appropriation Act, approved May tenth, nineteen hundred and sixteen as amended by the naval appropriation Act, approved August twenty-ninth, nineteen hundred and sixteen.] *Section 301 of the Dual Compensation Act of 1963 shall not apply to teachers in the public schools of the District of Columbia who are also employed as teachers of night schools and vacation schools.*

**SECTION 6 OF THE ACT OF MARCH 3, 1925 (43 STAT. 1108),
AS AMENDED BY THE ACT OF JANUARY 27, 1926 (44 STAT.
2; 2 U.S.C. 162; 5 U.S.C. 60)**

SEC. 6. Employees of the Library of Congress who perform special functions for the performance of which funds have been entrusted to the board or the librarian, or in connection with cooperatives undertakings in which the Library of Congress is engaged, shall not be subject to the proviso contained in the Act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1918, and for other purposes, approved March 3, 1917, in Thirty-ninth Statutes at Large, at page 1106; [nor shall any additional compensation so paid to such employees be construed as a double salary under the provisions of section 6 of the Act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1917 as amended (Thirty-ninth Statutes at Large, page 582)] *and section 301 of the Dual Compensation Act of 1963 shall not apply to any additional compensation so paid to such employees.*

ACT OF JULY 1, 1942 (56 STAT. 467; D.C. CODE, SEC. 31-631a)

AN ACT To exempt custodial employees of the District of Columbia Board of Education from the operation of the provisions of section 6 of the Legislative, Executive, and Judicial Appropriation Act approved May 10, 1916

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, [That section 6 of the Act entitled "An Act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1917", approved May 10, 1916 (39th Stat. 120), and Acts amendatory thereto,] That section 301 of the Dual Compensation Act of 1963 shall not apply to the custodial employees who are in the employ of the Board of Education of the District of Columbia when such employees are performing work required of them in school buildings during the time these buildings are used for nonrecreational official purposes by any Federal agency or department of the District of Columbia government other than the Board of Education, in accordance with the rules of the Board of Education governing the use of school buildings and grounds, including their use for day or evening schools; and nothing therein contained shall be deemed to prevent any custodial employee from receiving in addition to his pay,

salary, or compensation as an employee of the Board of Education of the District of Columbia any other pay, salary, or compensation at a rate not in excess of the rate of pay received as an employee of the Board of Education, for services which may have been rendered subsequent to May 31, 1941, or which may hereafter be rendered to any Federal agency or department of the District of Columbia government other than the Board of Education, during its use of school buildings under the jurisdiction of the Board of Education of the District of Columbia.

SECTION 2 OF THE ACT OF JULY 22, 1947 (61 STAT. 400, 74 STAT. 11; 33 U.S.C. 873)

SEC. 2. The Secretary of Commerce is hereby authorized to pay extra compensation to members of crews of vessels when assigned duties as instrument observer or recorder, and to employees of other Federal agencies while observing tides or currents, or tending seismographs or magnetographs, at such rates as may be specified from time to time by him *and without regard to section 301 of the Dual Compensation Act of 1963.*

SECTION 3 OF THE ACT OF JUNE 2, 1948, AS AMENDED (62 STAT. 286, 74 STAT. 11; 15 U.S.C. 327)

SEC. 3. The Secretary of Commerce is hereby authorized to (a) appoint employees for the conduct of meteorological investigations in the Arctic region without regard to the civil service laws and fix their compensation without regard to the Classification Act of 1949, as amended (5 U.S.C. 1071 and the following), and titles II and III of the Federal Employees Pay Act of 1945, as amended (5 U.S.C. 911 and the following), at base rates not to exceed the maximum scheduled rate for GS-12, and (b) grant extra compensation to employees of other Government agencies for taking and transmitting meteorological observations *without regard to section 301 of the Dual Compensation Act of 1963.*

SECTION 10(b) OF THE DEFENSE DEPARTMENT OVERSEAS TEACHERS PAY AND PERSONNEL PRACTICES ACT (73 STAT. 217; 5 U.S.C. 2358(b))

APPLICABILITY OF CERTAIN EXISTING LAW

SEC. 10. (a) * * *

(b) In the case of any teacher who

(1) is performing services as a teacher at the close of a school year.

(2) agrees in writing to serve as a teacher for the next school year, and

(3) is employed in another position in the recess period immediately preceding such next school year, or, during such recess period, receives quarters, allowances, or additional compensation referred to in sections 7 and 8 of this Act, or both, as the case may be,

DUAL EMPLOYMENT AND DUAL COMPENSATION

section [2 of the Act of July 31, 1894 (5 U.S.C. 62), relative to the holding of more than one office, section 6 of the Act of May 10, 1916 (5 U.S.C. 58 and 59), relative to double salaries, and any other law relating to the receipt of more than one salary or the holding of more than one office] *301 of the Dual Compensation Act of 1963* shall not apply to such teacher by reason of any such employment during a recess period or any such receipt of quarters, allowances, or additional compensation, or both, as the case may be.

* * * * *

SECTION 102 OF CHAPTER 7 OF TITLE 2, CANAL ZONE CODE
(76A STAT. 15)

§ 102. Exemption of teachers with respect to dual offices and double salaries

[Section 2 of the Legislative, Executive, and Judicial Appropriation Act, approved July 31, 1894, as amended (28 Stat. 205; 5 U.S.C., sec. 62), and section 6 of the Legislative, Executive, and Judicial Appropriation Act, approved May 10, 1916, as amended (39 Stat. 120; 5 U.S.C., sec. 58), do] *Section 301 of the Dual Compensation Act of 1963* does not apply to teachers in the public schools of the Canal Zone who are also employed in night schools or in vacation schools or programs.

SECTION 23(b) OF TITLE 13, UNITED STATES CODE

§ 23. Additional officers and employees

(a) * * *

(b) In addition to employees of the Department of Commerce, employees of other departments and independent offices of the Government may, with the consent of the head of the respective department or office, be employed and compensated for field work in connection with the work provided for by law *without regard to section 301 of the Dual Compensation Act of 1963.*

SUBSECTIONS (a) AND (c) OF SECTION 3335 OF TITLE 39,
UNITED STATES CODE

§ 3335. Dual employment and extra duties

(a) The Postmaster General may appoint an employee to more than one position and he shall pay compensation at the rate provided by law for each position, without regard to the provisions of [sections 58, 62, 69, and 70 of title 5] *sections 69 and 70 of title 5 and section 301 of the Dual Compensation Act of 1963.*

* * * * *

(c) The Postmaster General, with the consent of the Administrator of General Services, may appoint custodial employees working under the jurisdiction of the General Services Administration at Federal buildings occupied in part by the Postal Service to positions in the Postal Service to perform postal duties in addition to their regular

duties as custodial employees, and he shall pay compensation to them at the rate provided by law without regard to [sections 58, 62, 69, and 70 of title 5] *sections 69 and 70 of title 5 and section 301 of the Dual Compensation Act of 1963.*

SECTION 1763 OF THE REVISED STATUTES (5 U.S.C. 58)

[SEC. 1763. No person who holds an office, the salary or annual compensation attached to which amounts to the sum of two thousand five hundred dollars, shall receive compensation for discharging the duties of any other office, unless expressly authorized by law.]

SECTION 2074 OF THE REVISED STATUTES (25 U.S.C. 50)

[SEC. 2074. No person shall hold more than one office at the same time under this Title, nor shall any agent, sub-agent, interpreter, or person employed under this Title, receive his salary while absent from his agency or employment, without leave of the superintendent, or Secretary of the Interior; but such absence shall at no time exceed sixty days.]

ACT OF JULY 27, 1882 (22 STAT. 176)

[AN ACT To authorize the preparation and publication of a classified, analytical, and descriptive catalogue of all government publications from July fourth, seventeen hundred and seventy-six, to March fourth, eighteen hundred and eighty-one.

[Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there be prepared and published, under the direction of the Joint Committee on Printing, a classified, analytical, and descriptive catalogue of all publications made by the authority of the Government of the United States and the preceding government of the Colonies, and all departments, bureaus, and offices thereof, from July fourth, seventeen hundred and seventy-six, to March fourth, eighteen hundred and eighty-one; and upon the request of the said joint committee, the officers of the Senate and House of Representatives, and the heads of all the executive departments and of all the bureaus and offices thereof, shall furnish to said joint committee all such information and assistance in reference to said publications as will facilitate or assist in the completion of said work; and the sum of ten thousand dollars is hereby appropriated for the purposes of this act which sum may be expended as additional pay or compensation to any officer or employé of the United States.]

**THE SENTENCE IN THE ACT OF FEBRUARY 25, 1885
(23 STAT. 329)**

[And hereafter no consul or consul-general shall be entitled to or allowed any part of any salary appropriated for payment of a secretary or second secretary of legation or an interpreter.]

**SECTION 4395 OF THE REVISED STATUTES AS AMENDED
BY THE ACT OF JANUARY 20, 1888 (25 STAT. 1)**

[SEC. 4395. That there shall be appointed by the President, by and with the advice and consent of the Senate, a person of scientific and practical acquaintance with the fish and fisheries to be a Commissioner of Fish and Fisheries, and he shall receive a salary at the rate of five thousand dollars a year, and he shall be removable at the pleasure of the President. Said Commissioner shall not hold any other office or employment under the authority of the United States or any State.]

**JOINT RESOLUTION (NO. 3) OF FEBRUARY 5, 1889
(25 STAT. 1019)**

[JOINT RESOLUTION Accepting the invitation of the Imperial German Government to the Government of the United States to become a party to the International Geodetic Association

[Whereas, the Government of the United States has been invited by the Imperial German Government to become a party to the International Geodetic Association: Therefore,

[Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President be, and he is hereby, requested and authorized to accept said invitation, and that he is hereby authorized and requested to appoint a delegate, who shall be an officer of the United States Geodetic and Coast Survey, to attend the next meeting of said International Geodetic Association, but no extra salary or additional compensation shall be paid to such by reason of such attendance.]

**SECTION 2 OF THE ACT OF JULY 31, 1894 (28 STAT. 205), AS
AMENDED BY THE ACT OF MAY 31, 1924 (43 STAT. 245), BY
SECTION 6 OF THE ACT OF JULY 30, 1937 (50 STAT. 549),
AND BY THE ACT OF JUNE 25, 1938 (52 STAT. 1194), RE-
LATING TO THE HOLDING OF TWO OFFICES (5 U.S.C. 62)**

[SEC. 2. That the pay of assistant messengers, firemen, watchmen, laborers, and charwomen provided for in this Act, unless otherwise specially stated, shall be as follows: For assistant messengers, firemen, and watchmen, at the rate of seven hundred and twenty dollars per annum each; for laborers, at the rate of six hundred and sixty dollars per annum each, and for charwomen, at the rate of two hundred and forty dollars per annum each. No person who holds an office the salary or annual compensation attached to which amounts to the sum of two thousand five hundred dollars shall be appointed to or hold any other office to which compensation is attached unless specially heretofore or hereafter specially authorized thereto by law; but this shall not apply to retired officers of the Army, Navy, Marine Corps or Coast Guard whenever they may be elected to public office or whenever the President shall appoint them to office by and with the advice and consent of the Senate. Retired enlisted men of the Army, Navy, Marine Corps, or Coast Guard retired for any cause, and retired

officers of the Army, Navy, Marine Corps, or Coast Guard who have been retired for injuries received in battle or for injuries or incapacity incurred in line of duty shall not, within the meaning of this section, be construed to hold or to have held an office during such retirement.】

**THE FIFTH PARAGRAPH OF THE ACT OF FEBRUARY 20, 1895
(28 STAT. 676)**

* * * * *

【The compensation of said commissioners shall be fixed by the Secretary of the Treasury, but the same shall not exceed six dollars per day and actual traveling expenses: *Provided, however,* That the member of said commission appointed from the Treasury Department shall be paid only his actual traveling expenses.】

* * * * *

**SECTION 7 OF THE ACT OF JUNE 3, 1896 (29 STAT. 235; 5
U.S.C. 63)**

【SEC. 7. That section two of the Act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and ninety-five, and for other purposes, approved July thirty-first, eighteen hundred and ninety-four, shall not be so construed as to prevent the employment of any retired officer of the Army or Navy to do work under the direction of the Chief of Engineers of the United States Army in connection with the improvement of rivers and harbors of the United States, or the payment by the proper officer of the Treasury of any amounts agreed upon as compensation for such employment.】

SECTION 7 OF THE ACT OF JUNE 28, 1902 (32 STAT. 483)

【SEC. 7. That to enable the President to construct the canal and works appurtenant thereto as provided in this Act, there is hereby created the Isthmian Canal Commission, the same to be composed of seven members, who shall be nominated and appointed by the President, by and with the advice and consent of the Senate, and who shall serve until the completion of said canal unless sooner removed by the President, and one of whom shall be named as the chairman of said Commission. Of the seven members of said Commission at least four of them shall be persons learned and skilled in the science of engineering, and of the four at least one shall be an officer of the United States Army, and at least one other shall be an officer of the United States Navy, the said officers respectively being either upon the active or the retired list of the Army or of the Navy. Said commissioners shall each receive such compensation as the President shall prescribe until the same shall have been otherwise fixed by the Congress. In addition to the members of said Isthmian Canal Commission, the President is hereby authorized through said Commission to employ in said service any of the engineers of the United States Army at his discretion,

and likewise to employ any engineers in civil life at his discretion, and any other persons necessary for the proper and expeditious prosecution of said work. The compensation of all such engineers and other persons employed under this Act shall be fixed by said Commission, subject to the approval of the President. The official salary of any officer appointed or employed under this Act shall be deducted from the amount of salary or compensation provided by or which shall be fixed under the terms of this Act. Said Commission shall in all matters be subject to the direction and control of the President, and shall make to the President annually and at such other periods as may be required, either by law or by the order of the President, full and complete reports of all their actings and doings and of all moneys received and expended in the construction of said work and in the performance of their duties in connection therewith, which said reports shall be by the President transmitted to Congress. And the said Commission shall furthermore give to Congress, or either House of Congress, such information as may at any time be required either by Act of Congress or by the order of either House of Congress. The President shall cause to be provided and assigned for the use of the Commission such offices as may, with suitable equipment of the same, be necessary and proper, in his discretion, for the proper discharge of the duties thereof.]

* * * * *

THE PARAGRAPH OF THE ACT OF MARCH 4, 1909 (35 STAT. 931), RELATING TO THE PAY OF RETIRED ARMY AND NAVY OFFICERS AND ENLISTED MEN THEN IN THE EMPLOY OF THE ISTHMIAN CANAL COMMISSION

[Authority is hereby granted for the payment of salaries and wages accrued or hereafter earned of retired army and navy officers and enlisted men now in the employment of the Isthmian Canal Commission, in addition to their retired pay, where their compensation under such employment does not exceed two thousand five hundred dollars per annum.]

THE SECOND PARAGRAPH UNDER THE CENTER HEADING "THE ISTHMIAN CANAL" WITH THE SIDE HEADING "NATIONAL WATERWAYS COMMISSION:" IN THE ACT OF AUGUST 5, 1909 (36 STAT. 130)

THE ISTHMIAN CANAL

* * * * *

[NATIONAL WATERWAYS COMMISSION: Any officer or employee of the Government heretofore or hereafter employed by the National Waterways Commission not to exceed three persons at any one time may receive compensation for such employment from the money appropriated for said commission, notwithstanding the provisions of Revised Statutes, sections seventeen hundred and sixty-three, seventeen hundred and sixty-four, and seventeen hundred and sixty-five, and the Act approved July thirty-first, eighteen hundred and ninety-

four, entitled "An Act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June thirtieth, nineteen hundred and five, and for other purposes," and any other law whatsoever relating to such employment and compensation; and, in addition to the traveling and other expenses of members of the commission and their employees, the actual necessary expenses of persons detailed by any department or bureau of the Government while accompanying said commission on any inspection trip in the United States or elsewhere may be paid from the money appropriated for said commission.】

**SECTION 12 OF THE ACT OF AUGUST 20, 1912 (37 STAT. 319;
7 U.S.C. 165)**

【SEC. 12. That for the purpose of carrying out the provisions of this Act there shall be appointed by the Secretary of Agriculture from existing bureaus and offices in the Department of Agriculture, including the Bureau of Entomology, the Bureau of Plant Industry, and the Forest Service, a Federal Horticultural Board consisting of five members, of whom not more than two shall be appointed from any one bureau or office, and who shall serve without additional compensation.】

**SECTION 6 OF THE ACT OF MAY 10, 1916 (39 STAT. 120; 5
U.S.C. 58), AS AMENDED BY THE ACT OF AUGUST 29, 1916
(39 STAT. 582; 5 U.S.C. 59)**

【SEC. 6. That unless otherwise specially authorized by law, no money appropriated by this or any other Act shall be available for payment to any person receiving more than one salary when the combined amount of said salaries exceeds the sum of \$2,000 per annum, but this shall not apply to retired officers or enlisted men of the Army, Navy, Marine Corps, or Coast Guard, or to officers and enlisted men of the Organized Militia and Naval Militia in the several States, Territories, and the District of Columbia: *Provided*, That no such retired officer, officer, or enlisted man shall be denied or deprived of any of his pay, salary, or compensation as such, or of any other salary or compensation for services heretofore rendered, by reason of any decision or construction of said section six.】

SECTION 8 OF THE ACT OF MARCH 21, 1918 (40 STAT. 455-456)

【SEC. 8. That the President may execute any of the powers herein and heretofore granted him with relation to Federal control through such agencies as he may determine, and may fix the reasonable compensation for the performance of services in connection therewith, and may avail himself of the advice, assistance, and cooperation of the Interstate Commerce Commission and of the members and employees thereof, and may also call upon any department, commission, or board of the Government for such services as he may deem expedient. But no such official or employee of the United

States shall receive any additional compensation for such services except as now permitted by law.]

**SECTIONS 3 AND 4 OF THE WAR FINANCE CORPORATION
ACT (40 STAT. 507; 15 U.S.C. 333 AND 334)**

[SEC. 3. That the management of the Corporation shall be vested in a board of directors, consisting of the Secretary of the Treasury, who shall be chairman of the board, and four other persons, to be appointed by the President of the United States, by and with the advice and consent of the Senate. No director, officer, attorney, agent, or employee of the Corporation shall in any manner, directly or indirectly, participate in the determination of any question affecting his personal interests, or the interests of any corporation, partnership, or association, in which he is directly or indirectly interested; and each director shall devote his time, not otherwise required by the business of the United States, principally to the business of the Corporation. Before entering upon his duties, each of the four directors so appointed, and each officer, shall take an oath faithfully to discharge the duties of his office. Nothing contained in this or any other Act shall be construed to prevent the appointment as a director of the Corporation of any officer or employee under the United States or of a director of a Federal reserve bank.

[Of the four directors so appointed, the President of the United States shall designate two to serve for two years, and two for four years; and thereafter each director so appointed shall serve for four years. Whenever a vacancy shall occur among the directors so appointed, the person appointed director to fill any such vacancy shall hold office for the unexpired term of the member whose place he is selected to fill. Any director shall be subject to removal by the President of the United States. Three members of the board of directors shall constitute a quorum for the transaction of business.

[SEC. 4. That the four directors of the Corporation appointed as hereinbefore provided shall receive annual salaries payable monthly of \$12,000. Any director receiving from the United States any salary or compensation for services shall not receive as salary from the Corporation any amount which, together with any salary or compensation received from the United States, would make the total amount paid to him by the United States and by the Corporation exceed \$12,000.]

THE LAST PARAGRAPH UNDER THE HEADING "DISTRICT OF COLUMBIA." AND UNDER THE SUBHEADING "PUBLIC SCHOOLS." CONTAINED IN THE FIRST SECTION OF THE ACT OF JULY 8, 1918 (40 STAT. 823; D.C. CODE, SEC. 31-631)

DISTRICT OF COLUMBIA

* * * * *

PUBLIC SCHOOLS

* * * * *

【Section six of the legislative, executive, and judicial appropriation Act, approved May tenth, nineteen hundred and sixteen, as amended, shall not apply to employees of the community center department of the public schools of the District of Columbia.】

THE NINTH PARAGRAPH UNDER THE HEADING "DISTRICT OF COLUMBIA." AND UNDER THE SUBHEADING "PUBLIC SCHOOLS." CONTAINED IN THE FIRST SECTION OF THE THIRD DEFICIENCY ACT, FISCAL YEAR 1920 (41 STAT. 1017; D.C. CODE, SEC. 31-631)

DISTRICT OF COLUMBIA.

* * * * *

PUBLIC SCHOOLS.

* * * * *

【Section 6 of the Legislative, Executive, and Judicial Appropriation Act approved May 10, 1916, as amended, shall not apply to employees of the school garden department of the public schools of the District of Columbia.】

THE PROVISIO CONTAINED IN THE PARAGRAPH UNDER THE HEADING "BUREAU OF THE BUDGET" IN THE ACT OF FEBRUARY 17, 1922 (42 STAT. 373; 5 U.S.C. 64)

BUREAU OF THE BUDGET

Director, \$10,000: 【Provided, That section 2 of the Act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1895, and for other purposes, approved July 31, 1894, shall not be construed as having application to retired officers of the Army, Navy, Marine Corps, or Coast Guard who may be appointed to the offices created by section 207 of the Budget and Accounting Act, 1921, approved June 10, 1921, within the meaning of precluding payment to such officers of the difference in pay prescribed for such offices and their retired pay;】 Assistant Director, \$7,500; for all other necessary expenses of the bureau, including compensation of attorneys and other employees in the District of Columbia, printing, binding, telegrams, telephone

DUAL EMPLOYMENT AND DUAL COMPENSATION

service, law books, books of reference, periodicals, stationery, furniture, office equipment, other supplies, traveling expenses, street car fares, per diem in lieu of subsistence not exceeding \$4 for officers and employees while absent from the seat of government on official duty, \$137,300; in all \$154,800.

SECTION 212 OF THE ACT OF JUNE 30, 1932 (47 STAT. 406), AS AMENDED BY SECTION 3 OF THE ACT OF JULY 15, 1940 (54 STAT. 761), BY THE ACT OF FEBRUARY 20, 1954 (68 STAT. 18), BY SECTION 2 OF THE ACT OF AUGUST 4, 1955 (69 STAT. 498), BY SECTION 2201(11) OF THE ACT OF JUNE 17, 1957 (71 STAT. 158), AND BY SECTION 13(d) OF THE ACT OF SEPTEMBER 2, 1958 (72 STAT. 1264)

[LIMITATIONS ON AMOUNT OF RETIRED PAY

[SEC. 212. (a) After the date of the enactment of this Act, no person holding a civilian office or position, appointive or elective, under the United States Government or the municipal government of the District of Columbia or under any corporation, the majority of the stock of which is owned by the United States, shall be entitled, during the period of such incumbency, to retired pay from the United States for or on account of services as a commissioned officer in any of the services mentioned in the Pay Adjustment Act of 1922 [U.S.C., title 37], at a rate in excess of an amount which when combined with the annual rate of compensation from such civilian office or position, makes the total rate from both sources more than \$10,000; and when the retired pay amounts to or exceeds the rate of \$10,000 per annum such person shall be entitled to the pay of the civilian office or position or the retired pay, whichever he may elect. As used in this section, the term "retired pay" shall be construed to include credits for all service that lawfully may enter into the computation thereof.

[(b) This section shall not apply to any person whose retired pay, plus civilian pay, amounts to less than \$10,000: *Provided*, That this section shall not apply to any regular or emergency commissioned officer retired for disability (1) incurred in combat with an enemy of the United States, or (2) caused by an instrumentality of war and incurred in line of duty during a period of war (as that term is used in chapter 11 of title 38, United States Code).]

ACT OF SEPTEMBER 13, 1940 (54 STAT. 885)

JOINT RESOLUTION To authorize Jesse H. Jones, Federal Loan Administrator, to be appointed to, and to perform the duties of, the Office of Secretary of Commerce

[*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That notwithstanding any provision of law to the contrary, Jesse H. Jones, Federal Loan Administrator, may continue in such office and be appointed to, in the manner now provided by law, and may exercise the duties of the

Office of Secretary of Commerce: *Provided*, That the total compensation to be paid him as Secretary of Commerce and as Federal Loan Administrator shall be that provided by law for the Secretary of Commerce.】

ACT OF MARCH 29, 1945 (59 STAT. 38)

【JOINT RESOLUTION Providing for the employment of Government employees for folding speeches and pamphlets, House of Representatives

【*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That notwithstanding the provisions of the Act of May 10, 1916, as amended by the Act of August 29, 1916, the Doorkeeper of the House of Representatives is hereby authorized during the Seventy-ninth Congress to employ, whenever necessary, the services of Government employees for folding speeches and pamphlets at the prevailing rates provided by law.】

**ACT OF AUGUST 10, 1946 (60 STAT. 978), AS AMENDED BY
THE ACT OF OCTOBER 29, 1951 (65 STAT. 662)**

【AN ACT To authorize the Veterans' Administration to appoint and employ retired officers without affecting their retired status, and for other purposes

【*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That notwithstanding section 2 of the Act of July 31, 1894 (28 Stat. 205), as amended (5 U.S.C. 62), or section 6 of the Act of May 10, 1916 (39 Stat. 120), as amended (5 U.S.C. 58, 59), the Administrator of Veterans' Affairs may appoint to, and employ in, any civilian office or position in the Veterans' Administration, and pay, any retired commissioned officer, or retired warrant officer, of the Army, Navy, Marine Corps, Coast Guard, Coast and Geodetic Survey, and Public Health Service. The retired status, office, rank, and grade of retired commissioned officers, or retired warrant officers, so appointed or employed and, except as provided in section 212 of the Act of June 30, 1932 (47 Stat. 406), as amended (5 U.S.C. 59a), any emolument, perquisite, right, privilege, or benefit incident to or arising out of any such status, office, rank, or grade, shall be in no way affected by reason of such appointment to or employment in, or by reason of service in, or acceptance or holding of, any civilian office or position in the Veterans' Administration or the receipt of the pay thereof.

【SEC. 2. The authority to employ retired commissioned officers or retired warrant officers contained in section 1 of this Act shall be effective for a period of 10 years from the date of enactment.】

THE FIFTH SENTENCE OF SECTION 3 OF THE RECONSTRUCTION FINANCE CORPORATION ACT, AS IN EFFECT ON JUNE 30, 1947 (47 STAT. 6), AND AS CONTINUED BY SECTION 3(a) OF SUCH ACT, AS AMENDED (61 STAT. 203, 62 STAT. 262; 15 U.S.C. 603(a))

SEC. 3. * * *

【Nothing contained in this or in any other Act shall be construed to prevent the appointment and compensation as an employee of the corporation of any officer or employee of the United States in any board, commission, independent establishment, or executive department thereof.】

SECTION 2 OF THE ACT OF JULY 11, 1947 (61 STAT. 311; D.C. CODE, SEC. 4-183)

【SEC. 2. Notwithstanding the limitations of existing law, the said Commissioners may appoint to, and employ in, the position of director of such band, any retired officer of the United States Army, Navy, Marine Corps, or Coast Guard, and such retired officer shall be entitled to receive, in addition to his retired pay, the compensation authorized by this Act to be paid to such director, such additional compensation to be payable from District of Columbia appropriations.】

* * * * *

SECTION 3 OF THE ACT OF APRIL 21, 1948, AS AMENDED (7 U.S.C. 438)

【SEC. 3. Until December 31, 1949,¹ the Secretary of the Army may detail to the Department of Agriculture such military personnel, including officers in the Veterinary Corps of the Medical Department, as he may determine with the Secretary of Agriculture to be desirable to effectuate the purposes of this Act or to safeguard the interest of the United States. Notwithstanding the limitations contained in existing law, retired officer personnel of the Department of the Army, if employed by the Department of Agriculture for the purposes of this Act only, may receive in addition to their retired pay civilian salary to the extent that the total from both sources does not exceed the pay and allowances received by such persons in the permanent grade last held by them prior to retirement.】

* * * * *

SECTION 9 OF THE ACT OF JUNE 4, 1948 (62 STAT. 342; D.C. CODE, SEC. 2-1709)

SEC. 9. The Armory Board is authorized to employ and fix the compensation and term of a manager and such personnel as may be necessary in connection with the operation of the armory for the secondary purposes of this Act without regard to the provisions of the civil-service laws and Classification Act of 1923, as amended [, and

¹ The authority of section 3 was continued until December 31, 1949, by Department of Agriculture Appropriation Act, 1950.

without regard to any prohibition against double salaries contained in any other law¹. Under the direction of the Board and with written authorization signed by the members thereof, said manager may exercise such of the powers vested in the Board by section 6 of this Act as the Board shall determine.

* * * * *

**SECTION 5(f) OF THE CENTRAL INTELLIGENCE AGENCY
ACT OF 1949, AS AMENDED (65 STAT. 89, 72 STAT. 337;
50 U.S.C. 403f(f))¹**

GENERAL AUTHORITIES

SEC. 5. In the performance of its functions, the Central Intelligence Agency is authorized to—

* * * * *

[(f)(1) Notwithstanding section 2 of the Act of July 31, 1894 (28 Stat. 205), as amended (5 U.S.C.A. 62), or any other law prohibiting the employment of any retired commissioned or warrant officer of the armed services, the Agency is hereby authorized to employ and to pay the compensation of not more than fifteen retired officers or warrant officers of the armed services while performing service for the Agency, but while so serving such retired officer or warrant officer will be entitled to receive only the compensation of his position with the Agency, or his retired pay, whichever he may elect.

[(2) Nothing in this section shall limit or affect the appointment of and payment of compensation to retired officers or warrant officers not presently or hereafter prohibited by law.]

**SECTION 103 OF THE AMERICAN-MEXICAN TREATY ACT
OF 1950 (64 STAT. 847)**

SEC. 103. There are hereby authorized to be appropriated to the Department of State for the use of the Commission, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the provisions of the Treaty of February 3, 1944, and other treaties and conventions between the United States of America and the United Mexican States, under which the United States Section operates, and to discharge the statutory functions and duties of the United States Section. Such sums shall be available for construction, operation and maintenance of stream gaging stations, and their equipment and sites therefor; personal services and rent in the District of Columbia and elsewhere; services, including those of attorneys and appraisers, in accordance with the provisions of Section 15 of the Act of August 2, 1946 (5 U.S.C., sec. 55a), at rates for individuals not in excess of \$100 per diem and the United States Commissioner is hereby authorized, notwithstanding the provisions of any other Act, to employ as consultants by contract or otherwise without

¹ Section 5(f) of the Central Intelligence Agency Act was formerly section 6(f) of such Act and was redesignated as section 5(f) of such Act by section 21(b)(2) of the Government Employees Training Act (72 Stat. 337; Public Law 86-507).

regard to the Classification Act of 1949, as amended, and the civil service laws and regulations, retired personnel of the Armed Forces of the United States, who shall not be required to revert to an active status [, and who shall be entitled to receive, as compensation for such temporary service, the difference between the rates of pay established therefor and their retired pay during the period or periods of such temporary employment] ; travel expense, including, in the discretion of the Commissioner, expenses of attendance at meetings of organizations concerned with the activities of the Commission which may be necessary for the efficient discharge of the responsibilities of the Commission; hire, with or without personal services, of work animals, and animal-drawn and motor-propelled (including passenger) vehicles and aircraft and equipment; acquisition by donation, purchase, or condemnation, of real and personal property, including expenses of abstracts, certificates of title, and recording fees; purchase of ice and drinking water; inspection of equipment, supplies and materials by contract or otherwise; drilling and testing of foundations and damsites, by contract if deemed necessary; payment for official telephone service in the field in case of official telephones installed in private houses when authorized under regulations established by the Commissioner; purchase of firearms and ammunition for guard purposes; and such other objects and purposes as may be permitted by laws applicable, in whole or in part, to the United States Section: *Provided*, That, when appropriations have been made for the commencement or continuation of construction or operation and maintenance of any such project, the United States Commissioner, notwithstanding the provisions of sections 3679, 3732, and 3733 of the Revised Statutes or any other law, may enter into contracts beyond the amount actually appropriated for so much of the work on any such authorized project as the physical and orderly sequence of construction makes necessary, such contracts to be subject to and dependent upon future appropriations by Congress.

* * * * *

SECTION 401(a) OF THE FEDERAL CIVIL DEFENSE ACT OF
1950, AS AMENDED (64 STAT. 1254; 50 U.S.C. APP. 2253(a))

ADMINISTRATIVE AUTHORITY

SEC. 401. For the purpose of carrying out his powers and duties under this Act, the Administrator is authorized to -

(a) employ civilian personnel for duty in the United States, including the District of Columbia, or elsewhere, subject to the civil-service laws, and to fix the compensation of such personnel in accordance with the Classification Act of 1949, as amended; [and, notwithstanding the provisions of any other law, except those imposing restrictions upon dual compensation, employ, in a civilian capacity, with the approval of the President, not to exceed twenty-five retired personnel of the armed services on a full- or part-time basis without loss or reduction of or prejudice to their retired status;]

* * * * *

SUBPARAGRAPH (g) OF THE THIRD PARAGRAPH OF THE ACT OF AUGUST 5, 1953 (67 STAT. 366), AS AMENDED BY THE ACT OF AUGUST 9, 1955 (69 STAT. 590), AND BY THE ACT OF AUGUST 28, 1957 (71 STAT. 457)

[(g) Notwithstanding section 2 of the Act of July 31, 1894, as amended (5 U.S.C. 62), section 212 of the Act of June 30, 1932, as amended (5 U.S.C. 59a) or any other Federal law, one retired officer of the services mentioned in the Career Compensation Act of 1949 may be appointed to any civilian office or position in the Corregidor-Bataan Memorial Commission created by the Act of August 5, 1953, as amended (36 U.S.C. 426), for a period of not to exceed five years, and receive retired pay as a retired officer and civilian compensation concurrently. The retired status, office, rank, or grade such retired officer may occupy or hold, or any emolument, prerequisite, right, privilege, or benefit, incident to or arising out of such status, office, rank or grade, shall be in no way affected by reason of such appointment to or employment in such Commission.]

SECTION 12 OF THE DISTRICT OF COLUMBIA TEACHERS' SALARY ACT OF 1955 (69 STAT. 529; D.C. CODE, SEC. 31-1541)

[SEC. 12. Notwithstanding any law or regulation to the contrary, the Board, on the written recommendation of the Superintendent of Schools, may employ not more than fifteen retired members of the armed services of the United States as teachers of military science and tactics in the public high schools of the District of Columbia, and such teachers so employed shall be entitled to compensation in accordance with the salary schedules in section 1 of this Act, in addition to their retired pay and allowances.]

SECTION 8 OF THE ACT OF SEPTEMBER 7, 1957 (71 STAT. 628; 36 U.S.C. 748)

[SEC. 8. Notwithstanding section 2, of the Act of July 31, 1894 (28 Stat. 205), as amended (5 U.S.C. 62), or section 6 of the Act of May 10, 1916 (39 Stat. 120), as amended (5 U.S.C. 58, 59), the Chairman of the Commission may appoint to, and employ in, any civilian office or position in the Commission, and pay, any retired commissioned officer, or retired warrant officer, of the Army, Navy, Marine Corps, Coast Guard, Coast and Geodetic Survey, or Public Health Service. The retired status, office, rank, and grade of retired commissioned officers or retired warrant officers, so appointed or employed and, except as provided in section 212 of the Act of June 30, 1932 (47 Stat. 406), as amended (5 U.S.C. 59a), any emolument, prerequisite, right, privilege, or benefit incident to or arising out of any such status, office, rank, or grade, shall be in no way affected by reason of such appointment to or employment in, or by reason of service in, or acceptance or holding of, any civilian office or position in the Commission or the receipt of the pay thereof.]

* * * * *

DUAL EMPLOYMENT AND DUAL COMPENSATION

**SECTION 203(b)(11) OF THE NATIONAL AERONAUTICS AND
SPACE ACT OF 1958 (72 STAT. 431; 42 U.S.C. 2473(b)(11))**

FUNCTIONS OF THE ADMINISTRATION

SEC. 203. (a) * * *

(b) In the performance of its functions the Administration is authorized—

* * * * *

[(11) to employ retired commissioned officers of the armed forces of the United States and compensate them at the rate established for the positions occupied by them within the Administration, subject only to the limitations in pay set forth in section 212 of the Act of June 30, 1932, as amended (5 U.S.C. 59a);]

* * * * *

**SECTION 626(c) OF THE ACT OF SEPTEMBER 4, 1961
(75 STAT. 451; 22 U.S.C. 2386(c))**

SEC. 626. EXPERTS, CONSULTANTS, AND RETIRED OFFICERS.—(a)
* * *

* * * * *

[(c) Notwithstanding section 2 of the Act of July 31, 1894, as amended (5 U.S.C. 62), any retired officer of any of the services mentioned in the Career Compensation Act of 1949, as amended (37 U.S.C. 231 et seq.), may hold any office or appointment under this Act, but the compensation of any such retired officer shall be subject to the provisions of section 212 of Public Law 72-212, as amended.]

**SECTION 201(d) OF CHAPTER 7 OF TITLE 2, CANAL ZONE
CODE (76A STAT. 21)**

§ 201. Compensation of persons in military, naval, or Public Health Service who serve Canal Zone Government or Panama Canal Company

(a) * * *

* * * * *

[(d) In the case of persons retired as members of a regular component of the armed forces or the Public Health Service of the United States who are appointed to or employed in positions in the Canal Zone Government or the Panama Canal Company, the amount of their retired pay shall be deducted from the amount of their civilian salary or compensation. This subsection does not require the deduction of the retired pay of any warrant officer or enlisted man.]

SECTION 507 OF THE DEPARTMENT OF DEFENSE APPROPRIATION ACT, 1964 (77 STAT. 264; PUBLIC LAW 88-149)

Sec. 507. Appropriations for the Department of Defense for the current fiscal year shall be available for: (a) donations of not to exceed \$25 to each prisoner upon each release from confinement in military or contract prison and to each person discharged for fraudulent enlistment; (b) authorized issues of articles to prisoners, applicants for enlistment and persons in military custody; (c) subsistence of selective service registrants called for induction, applicants for enlistment, prisoners, civilian employees as authorized by law, and supernumeraries when necessitated by emergent military circumstances; (d) reimbursement for subsistence of enlisted personnel while sick in hospitals, (e) expenses of prisoners confined in non-military facilities; (f) military courts, boards, and commissions; (g) utility services for buildings erected at private cost, as authorized by law, and buildings on military reservations authorized by regulations to be used for welfare and recreational purposes; (h) exchange fees, and losses in the accounts of disbursing officers or agents in accordance with law; (i) expenses of Latin-American cooperation as authorized for the Navy by law (10 U.S.C. 7208); and (j) expenses of apprehension and delivery of deserters, prisoners, and members absent without leave, including payment of rewards of not to exceed \$25 in any one case [*Provided*, That section 212 of the Act of June 30, 1932 (5 U.S.C. 59a), shall not apply to retired military personnel on duty at the United States Soldiers' Home].

SECTION 4103(b) OF TITLE 38, UNITED STATES CODE

§ 4103. Appointments and compensation

(a) * * *

(b) The Chief Medical Director shall be the Chief of the Department of Medicine and Surgery and shall be directly responsible to the Administrator for the operations of the Department. He shall be a qualified doctor of medicine, appointed by the Administrator. [Section 62 of title 5 of the United States Code shall not apply to any individual appointed Chief Medical Director before January 1, 1964; however, section 59a of title 5 shall apply, in accordance with its terms, to any such individual.] During the period of his service as such, the Chief Medical Director shall be paid a salary of \$21,050 a year.

○

88TH CONGRESS	}	HOUSE OF REPRESENTATIVES	}	REPORT
1st Session				No. 890

DUAL COMPENSATION ACT

NOVEMBER 7, 1963.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. MURRAY, from the Committee on Post Office and Civil Service, submitted the following

R E P O R T

[To accompany H.R. 7381]

The Committee on Post Office and Civil Service, to whom was referred the bill (H.R. 7381) to simplify, modernize, and consolidate the laws relating to the employment of civilians in more than one position and the laws concerning the civilian employment of retired members of the uniformed services, and for other purposes, having considered the same, report favorably thereon with amendment and recommend that the bill do pass.

AMENDMENT

The amendment is as follows:

Strike out all after the enacting clause and insert the part printed in italic.

The amendment proposed by the committee strikes out all after the enacting clause and inserts a substitute text which is set forth in italic type in the bill, as reported. A statement of the purpose and effect of the amendment is contained in this report under the heading "Explanation of the Bill, As Reported."

PURPOSES

The general purposes of this legislation are to aid the Federal Government in obtaining the best qualified people available for hard to fill civilian positions; to provide reasonably uniform and fair treatment for retired military personnel with respect to their employment in Federal civilian positions; to provide appropriate safeguards so that Federal civilian employment of retired military personnel will not grant such personnel unfair advantage over civilian employees or unduly hamper career opportunities for civilian employees; and

to consolidate and simplify the present numerous and confusing statutes on dual compensation and dual employment in the Federal Government.

STATEMENT

This legislation is the outcome of more than 8 years of intensive studies and discussion within the executive branch, appropriate committees of the Congress, and representatives of employee, veterans, and retired military personnel organizations.

The conflicting and various approaches recommended by the organizations and by the administration were presented to the House Post Office and Civil Service Committee during 7 days of public hearings. The many diverse views clearly show that it would be impossible to follow completely the approach advocated by any one group.

The committee believes that the reported bill to represent overall a fair and workable approach which most nearly meets the needs of the public interest and the desire and needs of the veterans, military retirees, and civilian employee organizations.

POLICY FOR DUAL EMPLOYMENT AND DUAL COMPENSATION

Administrative recommendation

The bill carries out three of the four major policy criteria recommended by the administration as necessary for dual-employment and dual-compensation laws. The fourth policy criteria is adopted in part.

The policy criteria are set forth below.

(1) The policy should be to codify all existing dual compensation and dual-employment laws into one law which will be relatively simple to interpret and administer and which will eliminate the hardships caused individuals as a result of inadvertent, good faith misunderstandings of the application of the law.

(2) The policy should make it possible for the Government to recruit any retired military person who possesses scarce skills needed for Government programs.

(3) The policy should protect career civilian employees from advantages enjoyed by retired military personnel solely as a result of military service such as, for example, the advantage of veterans preference in reductions in force enjoyed by most military retirees.

(4) The policy should provide for equitable treatment of all retired military personnel, whether Regular or Reserve, officer or enlisted.

Summary of committee action.

The committee action on the dual-compensation and dual-employment criteria described above may be summarized as set forth below.

(1) The bill will repeal existing statutes on dual compensation and dual employment as recommended in the first policy criteria and provide a single statute setting forth clearly the Government's policy on dual compensation and dual employment.

(2) In connection with policy No. (3) above, the bill will remove the unjust advantages enjoyed by retired military personnel over career civilian personnel in reductions in force. Also, a more realistic method will be provided for counting military service for annual leave purposes.

No change is made in the veterans preference benefits for retired military personnel under section 2 of the Veterans Preference Act of 1944 (5 U.S.C. 851) or in the present method of crediting military service for annuity purposes under the Civil Service Retirement Act (5 U.S.C. 2251 and following).

Restrictions and controls are included in sections 204 and 205 of the bill to assure competitive examinations where practicable in connection with the appointment of a retired member to a civilian office in the competitive civil service and to require a delay of 180 days after retirement when such retirees are to be appointed to a civilian office in the Department of Defense.

(3) The committee has adopted the second policy and part of the fourth policy by eliminating the statutory restriction on employment by the Federal Government of retired Regular officers, the only group of military retirees still subject to the office-holding restrictions of section 2 of the act of July 31, 1894, as amended (5 U.S.C. 62). Such officers, however, will have their retired pay reduced; but the status quo of retired reservists and enlisted men will not be changed and they will continue to be able to receive full civilian compensation and full military retired pay.

The committee also adopted a standard policy on dual employment of civilian employees. The bill will limit civilian employees to the equivalent of one full-time job and part-time civilian employees to a combination of part-time positions equaling one full-time position.

Safeguards

The committee recognizes that there are those who feel that this bill represents an excessive and untimely reversal of longstanding legislative policy; particularly in regard to those provisions which repeal the existing laws relating to limitations on dual employment and dual compensation.

There is no dispute that abuses have crept into Federal multiple-office holding. However, a review of the legislative history of the major dual office-holding prohibition of the 1894 act and the dual-compensation prohibition of the 1916 act, each of which was enacted as a part of an appropriation act, shows that the abuses which gave rise to the prohibitions were based on a very few cases. Moreover, the criteria used in those acts—such as \$2,500 in the 1894 act and \$2,000 in the 1916 act—would result in absolute prohibition under today's rates of compensation except for the fact that many exceptions to the prohibitions have been granted by legislation.

The committee is convinced that this legislation does contain adequate safeguards to replace the provisions of law which are repealed by section 402 of the bill, as reported. Sections 204 and 205, relating to the restrictions on appointing retired military personnel, will assure that the needs and requirements of the Government will be the primary basis for determining the propriety of employing retired military personnel. Moreover, section 301 will limit employees of the Government to compensation for one full-time civilian office, unless an exception is granted by the U.S. Civil Service Commission on the basis of the Government employment needs.

JUSTIFICATION

The current situation

There are over 40 different laws and around 200 separate Comptroller General decisions relating either to the employment of retired military personnel in Federal civilian positions or to the employment of a civilian in two different Federal positions. Only a very few experts in Government completely understand these laws and decisions and, unfortunately, they cannot be present at all the places and on all the occasions where decisions on appointments and other matters involving these laws must be made.

Three of these forty or more laws are basic and have Government-wide application.

The act of July 31, 1894, which is commonly referred to as the dual employment or dual office-holding statute, is the earliest of these three basic laws. It provides, briefly, that no person may hold two offices if the salary attached to either is \$2,500 or more per annum. This act applies both to the employment in civilian positions of retired military officers and to the holding of two different civilian positions. Retired military personnel of the regular components are considered to hold office for purposes of this statute. Retired reservists, on the other hand, are not.

In 1894, when this particular law was passed, \$2,500 was a fairly considerable sum of money. Members of Congress then received \$5,000 a year. Assistant secretaries of Cabinet departments were generally paid between \$3,500 and \$4,500 a year. Chief clerks of departments and chiefs of major divisions, most of whom would be in the higher grades of the Classification Act today, were paid \$2,500 a year.

A retired major with 30 years of service in 1894 would have been retired at slightly over \$2,500 a year, and, of course, a major in 1894 held a higher relative military rank than a major of today. There were at that time a total of only 390 Army and Navy retired officers of the rank of major or lieutenant commander and above. This was, therefore, the only group of retired military personnel actually prohibited from holding civilian office by this law when it was passed; other retired officers could accept Federal civilian positions paying less than \$2,500 a year.

By reason of statutory exemptions enacted since 1894, more than 1,100 retired officers of the rank of major or lieutenant commander and above are currently employed as civilian employees in the Department of Defense.

Incidentally, the only exceptions to this law when it was passed were for retired officers who were either elected to public office or appointed by the President subject to Senate confirmation.

In 1924, when increased wages and retired pay had the effect of bringing all officers and some enlisted men under the practical operation of the \$2,500 ceiling, an amendment was passed to except all retired enlisted men (not including warrant officers) and those officers retired for disability incurred in line of duty.

These are still the only exceptions specifically listed in the basic statute. Numerous other exceptions, however, have arisen from other statutes and from interpretations of the courts and the Comptroller General. Out of 40,000 military retirees during fiscal year 1963, less

than 4,200 were subject to the dual employment prohibition of the 1894 act.

The act of 1916, the second of the basic dual-compensation acts, applies to the holding of two civilian Government positions. This law provides that no person may receive two salaries when the combined rate exceeds the sum of \$2,000 per annum. Because of this law's restrictive provisions, many agencies have had to go to Congress to obtain special statutory exemptions.

The act of 1932, the third of the basic dual-compensation acts, applies only to regular officers and to certain "temporary" officers who are, in either case, retired for "noncombat" disability. The act, as amended in 1956, provides that such officers may not receive retired pay if it would result in their receiving more than \$10,000 per year in combined retired pay and salary. If the military retired pay alone is \$10,000 or more, the officer may elect either the retired pay or the salary of the civilian position. If the military pay is less than \$10,000 he may receive the full salary of his civilian position, but his retired pay is reduced as necessary to bring the combined sum within the \$10,000 limit.

Officers who are retired for disability "incurred in combat with an enemy of the United States or caused by an instrumentality of war in time of war" are excepted from this \$10,000 limitation. Retired Reserve officers were considered to be subject to this act until the Court of Claims, in a series of decisions beginning in 1954, held that they were exempt by virtue of other legislation.

All three of these acts may have been quite reasonable at the time they were enacted. Because of changing economic and employment conditions, however, the dollar limitations set in these laws have long since become obsolete, in many cases depriving the Government of the services of highly trained retired military personnel. Numerous exceptions to these laws have been made on a piecemeal basis in an attempt to meet this situation, with the result that, at the present time, the legal hodgepodge is extremely difficult to understand, to say nothing of the impossibility of applying the laws equitably.

From the standpoint of good administration alone, a single, simplified dual-compensation law would save much of the time and money now spent in the executive branch in an attempt to administer and enforce the existing collection of obsolete, complex, and now unrealistic statutes.

Administrative difficulties under the present laws impede efficient Government management. The complexity of the statutes make economy of administration impossible. Agencies encounter continual problems in their efforts to make sure that existing restrictions are observed. The cost involved in attempting to reconcile the various statutes as applied to specific cases is known to be large, even though it cannot be accurately estimated for any given period of time. Numerous decisions of the Comptroller General have been required. Appointing, payroll, certifying, and disbursing officers must be conversant with a large body of highly complicated law.

Injustices to individuals have also occurred because of misinformation and erroneous conceptions of what the law requires. Private bills have been introduced in Congress to relieve cases of unusual hardship that have resulted from such situations.

At the present time, a situation exists where it may be necessary because of recent legal decisions, unless legislative relief is obtained,

retroactively to subject approximately 500 retired commissioned Army of the United States officers and an unknown number of retired commissioned Air Force officers to the dual compensation restrictions of section 12 of the Economy Act of 1932. Similarly, under a recent Comptroller General decision, a number of retired temporary warrant officers have been found to be serving in Federal civilian positions in violation of the Dual Office Holding Act of 1894. These problems are corrected by sections 201 (g) and (h) of the bill.

One of the worst effects of these laws today is the waste of trained manpower so badly needed in the Federal service. Nearly 40,000 carefully selected, highly trained, broadly experienced, loyal, and dedicated American citizens are not available as a source of skilled manpower for programs of their Government. In order to keep our military officer corps at the peak of physical vigor and efficiency, many are retired at a relatively early age, some after only 20 years of military service. Many of these retired officers are qualified as scientists, engineers, administrators, medical officers, and nurses, and in other skilled occupations where the demand for outstanding people is great.

Because of the nature of the work performed by civilians in the military departments, many skills required are not readily available in the civilian market or from among the civilians already employed. The technical knowledge and understanding necessary for the performance of this work are frequently found only among those men who have served the armed services during a career in uniform. In many instances these skills and understandings have been developed through training provided at Government expense in the course of military service. The retired military personnel, consequently, constitute a useful source of scarce skills for civilian employment.

This country cannot afford to waste this skilled manpower. Suitable employment in private industry is precluded for many by the conflict-of-interest laws, by consideration of age and company retirement provisions, or because of the fact that the individual's experience is most useful in Government. In other cases, where the individual is eagerly sought after by private industry, including defense contractors, it would be much to the practical advantage of the Government to have such persons on the Government side rather than the industry side, for example, in weapons systems procurement or contract supervision.

We have obtained some actual examples of recently retired regular officers who cannot now be employed in the Federal service, unless some special statutory provision is obtained:

A medical officer who had specialized in research in pathology retired from the Army as a colonel. The Public Health Service is doing research in the same area and could have used his background and skills to great advantage.

A trained meteorologist, a chief warrant officer, was retired at age 44, several years ago. The Weather Bureau could not employ him.

A mathematician, retired at 48 as a colonel, with two teenage children, had to seek employment outside the Government.

A mechanical engineer, retiring at 43 as a colonel, with a background in engineering research at Wright Air Development Center, had to seek employment in private aircraft firms.

An aeronautical engineer, retired as a lieutenant colonel at age 42, with a background in research and development, had to seek employ-

ment outside the Government. He had received his master's degree from the Air Institute of Technology—an Air Force school.

The Congress, the executive branch, and others concerned with the problems of dual compensation-dual employment have all been seeking a solution to these problems for a number of years.

James E. Webb, Administrator, National Aeronautics and Space Administration, during the hearings, cited several cases as typical problems being experienced by NASA in attempting to fill key position vacancies by employing retired military personnel competent and experienced in the aerospace field.

(1) A colonel recently retired from the U.S. Air Force after 23 years of military service including program management, commander of the test wing at Cape Canaveral during the critical Thor-Atlas period, and test commander at the Special Weapons Center. He was offered \$20,000 as an Assistant Director of NASA's Manned Spacecraft Center in Houston. However, he declined in favor of a \$27,000 position with Space Technology Laboratories in which position he would still be able to draw his \$7,000 military retirement. Mr. Walter Williams, our Deputy Director at Houston, believes the colonel would have accepted the NASA position if he could have retained all of his retired pay.

(2) A Navy captain presently on duty at NASA's Manned Spacecraft Center in Houston, as a branch chief, previously served as range operations officer at Point Mugu, Calif., and in space surveillance at Dahlgren, Va. His experience is appropriate to work in the development of our Apollo tracking network, including coordination with the Jet Propulsion Laboratory, the Goddard Space Flight Center, and military tracking systems. He has requested retirement from the Navy, and has indicated an interest in a position with NASA or any other Federal research and development agency. However, this captain will not consider a position unless it would be at the \$18,000 to \$20,000 level, in order to compensate in substantial measure for the loss of retired pay.

(3) An active duty Navy captain, presently on detail at NASA headquarters as a division director, has had 22 years of military service. He is considering retirement from the Navy and will be eligible to receive more than \$6,000 retirement pay, which he would have to waive under the existing laws if employed in NASA as a civilian at a similar level of responsibility. With his qualifications, his services would be sought by industry. While he would like to continue in the NASA program after retirement, he doubts that he could afford to accept the financial penalty.

Two U.S. Air Force colonels who are currently occupying key positions at our George C. Marshall Space Flight Center at Huntsville, Ala., are additional examples in this category.

(4) NASA has, in its employ at the present time, several senior retired Regular military personnel, one of whom is on the deputy associate administrator level, which is the highest level in the agency of general executives. These officers have served in industry at much higher combined industry and retired military pay than they are presently receiving at NASA. Like many civilian personnel in the higher executive brackets, they are willing to forego, for a while at least, the attraction of the higher salary of industry in exchange for the experience and the personal satisfaction of participating first

hand in the Nation's space program. However, NASA can expect to lose the services of some of these men after a period of time if they must continue to forfeit all or most of their retired pay. This financial penalty in some cases approaches one-half to two-thirds of their salary at NASA.

EXPLANATION OF THE BILL AS REPORTED

SHORT TITLE

The first section provides a short title for the proposed law—the "Dual Compensation Act."

TITLE I—DEFINITIONS

Section 101 defines the special terms used, most of which are based on the definitions used for the same words by section 101 of title 37, United States Code. The definition of "civilian office" is intended to cover employment in any civilian office or position in the Government of the United States or in the municipal government of the District of Columbia whether appointive, elective, under a personal service contract, or otherwise. Such term also covers employment in non-appropriated fund instrumentalities under the jurisdiction of the Armed Forces.

TITLE II—EMPLOYMENT OF RETIRED MEMBERS OF UNIFORMED SERVICES

Reduction in retired or retirement pay

Section 201(a) provides that a retired officer of any Regular component of the uniformed services who holds a civilian office shall receive the full compensation of the civilian office plus the first \$2,000 of his retired or retirement pay, plus one-half of the remainder, if any. The prohibition in section 2 of the act of July 31, 1894, as amended (5 U.S.C. 62), against such retired officers holding a civilian office is repealed by section 402(a)(7) of the bill.

Section 201(a) also provides that the \$2,000 shall be increased by appropriate percentages in direct proportion to each increase in such retired or retirement pay under section 1401a(b) of title 10, United States Code, to reflect changes in the Consumer Price Index. Thus, if the first increase under such section 1401a(b) amounts to 3 percent, such a retired officer thereafter will have his retirement or retired pay reduced to an annual rate equal to the first \$2,000 increased by 3 percent plus one-half the remainder and the next increase under such section 1401a(b) would be applied to the new base and any later increases applied accordingly.

Section 201(b) excepts from reduction in retired pay required by subsection (a) a retired officer of any Regular component of the uniformed services whose retirement was based on disability resulting from an injury or disease received in line of duty as a direct result of armed conflict or based on disability caused by an instrumentality of war and incurred in the line of duty during a period of war.

Section 201(c) excepts from the reduction in retired or retirement pay required by subsection (a) the first 30 days of a temporary, part-time, or intermittent appointment if serving under one appoint-

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ment, or not to exceed a total of 30 days during any fiscal year in case the employee is serving under more than one appointment.

Section 201(d) provides a definition of "period for which he receives salary" for purposes of subsections (a) and (c) of section 201.

Section 201(e) authorizes the U.S. Civil Service Commission, subject to the supervision and control of the President, to prescribe regulations under which exceptions to subsection (a) may be made whenever it is determined by appropriate authority that exceptions are warranted on the basis of special or emergency employment needs which otherwise cannot readily be met. Authority to provide a means for exceptions from subsection (a) also is vested in the President of the Senate with respect to the U.S. Senate, the Speaker of the House with respect to the U.S. House of Representatives, and the Architect of the Capitol with respect to the Office of the Architect of the Capitol. Special authority is granted the Administrator of the National Aeronautics and Space Administration to exempt from such subsection (a) any individual in a scientific, engineering, or administrative position appointed pursuant to section 203(b)(2)(A) of the National Aeronautics and Space Act of 1958, as amended (42 U.S.C. 2473(b)(2)(A)), but not more than 30 such exemptions may exist at any one time.

Section 201(f) provides that a retired officer of any Regular component of the uniformed services who was employed in a civilian office on the day immediately preceding the effective date of the subsection may elect to remain subject to and continue under any applicable limitations on or exceptions to the amount of compensation to be received which were in effect prior to such effective date, or to be subject to the applicable limitations and exceptions contained in subsections (a), (b), (c), and (e) of section 201.

It is expected that very few Regular officers will be in a position to exercise this option because the only Regular officers serving in civilian positions at the present time are those serving in positions for which specific statutory exemptions have been granted from the dual office holding prohibitions of section 2 of the act of July 31, 1894, as amended (5 U.S.C. 62).

Reserve officers

Section 201(g) authorizes the retroactive exemption from the \$10,000 compensation restriction of section 212 of the act of June 30, 1932, as amended (5 U.S.C. 59a), for certain retired members who were serving in the Army or Air Force of the United States without component in a temporary grade higher than, or the same as, the Reserve commission then held who were retired in such grade for physical disability. The exemption will be retroactive and apply to each such person for any period following his retirement. The effect of the provision will be to require retroactive adjustment in retirement or retired pay and will overcome the recent decision of the Comptroller General involving these officers (B-136459, May 18, 1961).

Warrant officers

Section 201(h) will exempt a non-Regular member of any of the Armed Forces who served on active duty in a temporary warrant officer grade and who was retired in that status prior to the effective date prescribed by section 403(a) of the bill from the restriction in section 2 of the act of July 31, 1894; as amended (5 U.S.C. 62), for

any period following his retirement. This provision is designed to protect the civilian appointments of such retired warrant officers retroactively to the date of their appointment to civilian positions. This provision will overcome the holding of the Comptroller General's decision of April 2, 1963 (B-141989) that a retired temporary warrant officer is subject to the dual-office restriction contained in the act of July 31, 1894, and, therefore could not legally be appointed to a civilian office.

Reduction-in-force benefits

Section 202 of the bill amends section 12 of the Veterans Preference Act of 1944, as amended (5 U.S.C. 861), to restrict the retention rights in connection with reduction in force of certain civilian employees who are retired members of a uniformed service. Section 202 adds a new subsection (b) to such section 12 which will grant, for reduction-in-force purposes, an employee who is a retired member of any of the uniformed services a preferred status as a preference employee only if his retirement was based on disability resulting from injury or disease received in line of duty as a direct result of armed conflict or based on disability caused by an instrumentality of war and incurred in line of duty during a period of war. In addition, such an employee will be entitled to retain his veterans' preference status for reduction-in-force purposes if his military service does not include 20 or more years of full-time active service, or if, immediately prior to the effective date prescribed by section 403(a) of the bill, he was employed in a civilian office and, on or after such date, he continued to be employed in such office without a break in service of more than 30 days.

Section 202 of the bill also adds a new subsection (c) to section 12 of the Veterans Preference Act of 1944. The new subsection (c) reduces the military service that may be counted by employees for reduction-in-force purposes when the employee is a retired member of the uniformed services. The new subsection (c) will authorize the crediting of military service for reduction-in-force purposes by an employee who is a retired member of any of the uniformed services only for the length of time in active service in the Armed Forces during any war or in any campaign or expedition, or for the total length of time in active service in the Armed Forces, if the employee is covered by any one of the descriptions contained in clause (1), (2), or (3) of the new subsection (b) of section 202 discussed above. The counting of military service by employees who meet the requirements of the new subsection (c) is authorized, as heretofore, without regard to whether he is entitled to veterans' preference.

Crediting military service for annual leave purposes

Section 203 of the bill amends section 203(a) of the Annual and Sick Leave Act of 1951 to provide a more restrictive method of crediting active military service of a retired member of any of the uniformed services for annual leave accrual purposes. Under existing law, all service creditable under section 3 of the Civil Service Retirement Act for purposes of annuity may be counted in determining annual leave accruals (which are based on 13 days per year up to 3 years of service, 20 days after 3 years of service up to 15 years, and 26 days per year after 15 years of service). It is the current practice to count all military service for annual leave accrual purposes since all

military service is creditable under the Civil Service Retirement Act if the retiree waives his military retired pay.

The amendment to the Annual and Sick Leave Act of 1951 made by section 203 of the bill will permit a retired member of the uniformed services to count, for annual leave accrual purposes, only military service performed in the Armed Forces during any war or in any campaign or expedition for which a campaign badge has been authorized or all of his military service if his retirement is based on disability resulting from injury or disease received in line of duty as a direct result of armed conflict or based on disability caused by an instrumentality of war and incurred in line of duty during a period of war. The section also contains a savings clause to permit those now employed to continue counting all their military service.

Civilian employment procedures—Retired military personnel

Sections 204 and 205 establish safeguards which will assure that consideration of retired military personnel for civil service positions is accomplished on an equitable competitive basis and that there is strict compliance in spirit and in procedure with the fundamental merit system principle of open public competition. These sections are intended to do away with the so-called buddy system under which a position is created or held open at a military installation for a buddy about to retire from the military service. This undesirable practice has been recognized by officials of the Department of Defense and procedures to safeguard the merit system were set forth in memorandums issued by Deputy Secretary of Defense Roswell L. Gilpatric under dates of July 5, 1961, and October 30, 1962.

Section 204 of the bill writes into law the essence of the Gilpatric policy referred to above.

The provisions of subsection (a) of section 204 are intended to prohibit most appointments of retired military personnel to civilian positions in the Department of Defense during a period of 180 days immediately following their retirement. However, exceptions to the prohibition are permissible if (1) the proposed appointment is authorized by the Secretary concerned or his designee for the purpose and, if the civilian office is in the competitive civil service, after approved by the U.S. Civil Service Commission; or (2) higher minimum rates have been established for the civilian office under section 504 of the Federal Salary Reform Act of 1962; or (3) a state of national emergency exists.

The provisions of subsection (b) of section 204 specify in detail the information which must accompany a request for the authorization or a request for the authorization and approval, as the case may be, required by subsection (a)(1) of section 204.

Section 205 requires that before a retired member of any of the uniformed services may be appointed to a civilian office in the competitive civil service of any agency in the executive branch there must be public notice that a vacancy exists and that an assembled examination, where practicable, open to all persons, is to be given. Also, the vacancy may be filled only from among those qualified persons who successfully complete such examination.

The provisions of this section do not apply to appointments to the 30 positions of National Aeronautics and Space Administration referred to in section 201(e) of the bill.

Report

Section 206 requires the President to transmit to the Congress on or before January 1, 1966, a comprehensive report of the operations of the departments and agencies in the executive branch under title II of the bill.

It is expected that the report will contain sufficient information to permit the appropriate committees of the Congress to review the utilization of the new dual-employment and dual-compensation system established by the bill and to review particularly any adverse effects resulting from the repeal of the dual office holding restrictions of section 2 of the act of July 31, 1894, as amended (5 U.S.C. 62).

Employment in more than one civilian office

The provisions of section 301 of the bill deal solely with the employment of civilian personnel in more than one civilian office.

Subsection (a) of section 301 will prohibit Government civilian personnel generally from receiving basic compensation from more than one civilian office (as defined in section 101(3) of the bill) for more than an aggregate of 40 hours of work in any calendar week (Sunday through Saturday). The provisions do not prohibit an employee from having a combination of part-time positions collectively equal to an aggregate of 40 hours of work in any calendar week.

The prohibition is on the receipt of basic compensation and will not affect the receipt of otherwise properly earned overtime compensation for work in one position in excess of the hours required for overtime compensation.

Subsection (b) of section 301 authorizes the U.S. Civil Service Commission, subject to the supervision and control of the President, to prescribe regulations under which exceptions to subsection (a) of such section may be made whenever it is determined by appropriate authority that exceptions are warranted on the ground that personal services otherwise cannot be readily obtained.

Subsection (c) of section 301 vests authority to provide a means for exceptions to subsection (a) of such section in the President of the Senate with respect to the U.S. Senate, the Speaker of the House with respect to the U.S. House of Representatives, and the Architect of the Capitol with respect to the Office of the Architect of the Capitol.

Subsection (d) of section 301 provides that subsection (a) of such section does not apply to the receipt of compensation in unusual situations which Congress previously has found deserve special treatment, or which were the subject of decisions by the Comptroller General.

Paragraph (1) excepts compensation on a when-actually-employed basis received from more than one consultant or expert position if such compensation is not received for the same hours of the same day.

Paragraph (2) excepts compensation consisting of fees paid on other than a time basis.

Paragraph (3) excepts compensation received by teachers of the public schools of the District of Columbia for employment in a civilian office during the summer vacation period.

Paragraph (4) excepts compensation paid by the Tennessee Valley Authority to employees performing certain part-time or intermittent work in addition to their normal duties when the Authority deems it to be in the interest of efficiency and economy.

Paragraph (5) excepts compensation paid by the U.S. Guard to employees occupying part-time positions of lamplighters.

Paragraph (6) excepts compensation within the purview of provisions of nine laws, each of which are amended by section 401(i)-(q) of the bill to provide exceptions from section 301.

Subsection (e) is a savings provision permitting civilian personnel serving on the effective date of section 301 in more than one position under properly authorized appointments to continue to serve under such appointments and to receive the compensation from such offices without regard to subsection (a) for the duration of the appointment or appointments.

Miscellaneous provisions

Subsections (a) through (h) of section 401 of the bill amend provisions of various laws to eliminate reference to section 212 of the act of June 30, 1932, as amended (5 U.S.C. 59a), which is repealed by section 402(a)(20) of the bill and to insert in lieu thereof reference to section 201 of the bill, that is, section 201 of the new Dual Compensation Act. Thus, Regular officers who may be appointed to the civilian offices covered by such laws will have their retired pay reduced under the provisions of section 201 of the bill, if applicable.

Subsection (a) relates to a member of the Boxing Commission of the District of Columbia (D.C. Code, sec. 3-1226).

Subsection (b) relates to the Office of Civil Defense in the District of Columbia (D.C. Code, sec. 6-1202).

Subsection (c) relates to service as a member of the Peace Corps National Advisory Council (22 U.S.C. 2512(b)).

Subsection (d) relates to certain consultants, members of advising boards, and other persons of the Arms Control and Disarmament Agency (22 U.S.C. 2584).

Subsection (e) relates to retired officers appointed to positions authorized under the Foreign Assistance Act of 1961 (22 U.S.C. 2386(b)).

Subsection (f) relates to the Chairman of the Military Liaison Committee under the Atomic Energy Act of 1954 (42 U.S.C. 2038).

Subsection (g) relates to the Chairman of the Liaison Committee under the National Aeronautics and Space Act of 1958 (42 U.S.C. 2474(d)).

Subsection (h) relates to the members of the U.S. Study Commission on the Savannah, Altamaha, St. Marys, Apalachicola-Chattahoochee, and Perdido-Escambia River Basins and intervening areas (Public Law 85-850).

Subsections (i) through (q) of section 401 amend provisions of various laws to eliminate reference to section 2 of the act of July 31, 1894, as amended (5 U.S.C. 62), and section 6 of the act of May 10, 1916, as amended (5 U.S.C. 58 and 59), relating to dual employment and dual compensation and to insert reference to section 301 of the bill, that is, section 301 of the New Dual Compensation Act.

Subsection (i) relates to public school teachers of District of Columbia employed as teachers of night schools and vacation schools (D.C. Code, sec. 31-631a).

Subsection (j) relates to certain employees of Library of Congress (2 U.S.C. 162; 5 U.S.C. 60).

Subsection (k) relates to custodial employees of the District of Columbia Board of Education when such employees are performing

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work in school buildings being used for nonrecreational official purposes by a Federal agency or department of the District of Columbia government (D.C. Code, sec. 31-631a).

Subsection (l) relates to crews of vessels under the Secretary of Commerce when assigned duties as instrument observer or recorder and to Federal employees while observing tides or currents, or tending seismograph or magnetographs (33 U.S.C. 873).

Subsection (m) relates to employees conducting meteorological investigations in the Arctic region (15 U.S.C. 327).

Subsection (n) relates to Department of Defense oversea teachers employed in another position during the school recess period (5 U.S.C. 2358(b)).

Subsection (o) relates to public school teachers of the Canal Zone who also are employed in night or vacation schools (sec. 102, ch. 7, title 2, Canal Zone Code).

Subsection (p) relates to Federal employees performing fieldwork of the Census Bureau in addition to their regular duties (13 U.S.C. 23(b)).

Subsection (q) relates to dual employment of employees in the postal service (39 U.S.C. 3335).

REPEALS

Section 402 (a) repeals 38 provisions of law relating to dual employment or dual compensation or which are now obsolete, including the three major laws on these subjects, namely: (1) Section 2 of the act of July 31, 1894, as amended (5 U.S.C. 62), relating to the holding of two offices; (2) section 6 of the act of May 10, 1916 (5 U.S.C. 58), relating to double salaries; and (3) section 212 of the act of June 30, 1932, as amended (5 U.S.C. 59a), relating to the limitation of \$10,000 on the amount of retired pay received for commissioned officer service when combined with Government civilian salary.

Subsection (b) of section 402 contains provisions repealing all other law, general or specific, not repealed by subsection (a) and inconsistent with the provisions of this legislation.

EFFECTIVE DATES

Section 403 established an effective date as the first day of the first month which begins later than the 90th day following the date of enactment of the bill, except for sections 201(g) and 201(h), which shall become effective upon enactment.

The latter two sections relate to Reserve officers and warrant officers.

Section 404 provides that if any provision of this legislation shall be held invalid, the remaining provisions shall not be affected.

COST

The committee was unable to obtain any specific cost information on the amount of overpayments proposed to be waived by subsections (g) and (h) of section 201 of the bill in the cases of certain Reserve officers and warrant officers. Nor is it possible to estimate any additional cost that might be incurred by removal of the \$10,000 dual-compensation limitation of the act of June 30, 1932, in the case of those few remaining officers who have been exempted specifically

from the dual-office restriction of the act of July 31, 1894, but not from such \$10,000 limitation.

The committee believes it to be a fair statement to say that the payment of the full amount of compensation for an individual who holds a civilian position does not result in additional cost to the Government by reason of the fact that the occupant happens to be a military retiree, whether Reserve or Regular or officer or enlisted man.

VIEWS OF THE EXECUTIVE BRANCH AND AGENCY REPORTS

The special message from the U.S. Civil Service Commission dated June 25, 1963, report dated August 1, 1963, from the National Aeronautics and Space Administration, and report dated July 15, 1963, from the Comptroller General of the United States are as follows:

U.S. CIVIL SERVICE COMMISSION,
Washington, D.C., June 25, 1963.

Hon. JOHN W. McCORMACK,
Speaker of the House of Representatives.

DEAR MR. SPEAKER: The Civil Service Commission is submitting for the consideration of the Congress a draft of a proposed bill to simplify, modernize, and consolidate the laws relating to the employment of civilians in more than one position and the laws concerning the civilian employment of retired members of the uniformed services, and for other purposes. Also enclosed are a section analysis of the draft proposed bill and a statement of purpose and justification.

Existing statutes on the civilian employment of retired military personnel and the dual employment of civilians are generally agreed to be harmful, obsolete, unfair, confusing, and difficult to administer. They are harmful, because for example, they deprive the Government of the services of certain highly trained retired military personnel whose technical skills, frequently acquired at Government expense, are in short supply and are needed in Federal agencies. Their obsolete nature is indicated by the fact that one law, enacted in 1894, was intended originally as a limitation on combined pension and salary but now serves to bar absolutely certain retired military personnel from almost all Government employment. The statutes are unfair, confusing, and difficult to administer in that some categories of retired military personnel may not be employed at all; some may be employed subject to a \$10,000 limitation on receipt of combined civilian salary and retired pay; and some may be employed in any agency without any limitation on combined compensation. Further complicating the picture is the fact that it is often difficult to determine into which category an individual falls, leading to many Comptroller General decisions. Another factor is that a few agencies have been granted exceptions to parts of the law and may employ any person retired from the military service.

The Commission also receives many complaints from employee organizations and civil service employees concerning the advantages possessed by retired military personnel in reductions in force. Some of these complaints are received directly; many are received through Congressmen on behalf of the people they represent.

The problems in administering the laws on civilian employment of retired personnel are further reflected in the introduction in the Congress each year of private bills to relieve employees of debts owed to the United States and incurred by overpayment of military retired pay or civilian salary. The overpayments result from understandable errors in the interpretation of the more than 40 separate provisions of law and the 200-plus Comptroller General decisions which seek to interpret this tangle of statutes.

The proposed legislation would accomplish these things: First, it would help the Government to obtain the best qualified people available to fill certain of its hard-to-fill civilian positions. We can no longer afford to exclude from consideration for employment retired military personnel who have the highly technical knowledges and skills which are in demand. Second, the draft bill would provide fairer treatment of all categories of retired military personnel. Third, the proposed legislation would provide reasonable safeguards so that the employment of retired military personnel would not unfairly hamper career opportunities for present civilian personnel. Fourth, the bill would consolidate and simplify the present numerous and confusing statutes on dual compensation and dual employment.

The problems involved in the employment of retired military personnel and the dual employment of civilians in the Federal service have been frequently studied over the past several years by congressional committees and individual Members of Congress, the Civil Service Commission, and other interested Federal agencies. These studies have been extremely helpful in clarifying the issues involved. We believe the enclosed proposed draft bill treats these issues in a manner which is fair to all individuals concerned and best serves the public interest.

An almost identical proposal was introduced in the 87th Congress as H.R. 12721 at the Commission's request but no action was taken thereon. The current proposal differs substantively from H.R. 12721 in the following respects:

(1) H.R. 12721 contained an exemption from the bill's provisions for retired military members whose retirement was based on disability "incurred in combat with an enemy of the United States." This exemption has been changed in the current proposal to include those retired members whose disability results "from an injury or disease received in line of duty as a direct result of armed conflict." This change would extend the exemption to those disabled in the kind of cold-war conflicts in which American military personnel are now engaged.

(2) Section 103 of H.R. 12721 contained amendments to the Veterans' Preference Act which would restrict the veterans' preference benefits to which retired military personnel would be entitled. In the current proposal a provision has been added to these amendments which would preserve veterans' preference for reservists who become eligible for military retirement at age 60 subsequent to their employment in the Federal service.

(3) The provisions of section 303(c) of H.R. 12721, which related to deductions under the retired serviceman's family protection plan, have not been included in the current proposal. It has been determined that deletion of these provisions will result in more consistent treatment of persons covered by the bill.

(4) A provision (section 102(g)) has been included in the current proposal to grant retroactive legislative relief to a number of retired temporary warrant officers who, under a recent decision of the Comptroller General, have been found to be employed in the Federal service in violation of the restrictions of the Dual Office Holding Act of 1894.

The Bureau of the Budget advises that from the standpoint of the administration's program there is no objection to the submission of this proposed legislation for the consideration of the Congress.

A similar letter is being sent to the President of the Senate.

By direction of the Commission:

Sincerely yours,

JOHN W. MACY, Jr., *Chairman.*

DUAL COMPENSATION ACT OF 1963

Legislative Proposal To Simplify, Modernize, and Consolidate the Laws Relating to the Employment of Civilians in More Than One Position and the Laws Concerning the Civilian Employment of Retired Members of the Uniformed Services, and for Other Purposes

PURPOSE

1. To authorize the employment of retired military personnel, and to permit such personnel to receive full civilian pay but to limit retired pay to the first \$2,000 of such retired pay plus one-half of the remainder, if any. The President would be given the authority to grant exceptions to this limitation on combined compensation if it is determined such exceptions are to be necessary in order to meet special or emergency Government employment needs.

2. To authorize a "fresh start" principal with respect to retired military personnel who accept Federal civilian employment. With the exception of those whose retirement is based on disability as a result of armed conflict, or caused by an instrumentality of war in time of war, and of those whose retired pay is based on less than 6 years of continuous full-time active duty, retired military personnel would not receive veterans' preference nor would their military time count in computing leave, retirement, or reduction-in-force retention credits.

3 To continue the policies of exempting certain military personnel disabled in line of duty from the restrictions on employment of retired military personnel. Those retiring with less than 6 years of continuous active duty would also be exempted.

4. To limit civilian employees in the Federal Government to compensation for one full-time position, unless an exception to this restriction is granted by the Civil Service Commission on the basis of Government employment needs.

5. To make uniform, simplify, and consolidate in one law all statutory provisions relating to the Federal civilian employment of retired military personnel and the dual employment of Federal civilian employees.

JUSTIFICATION

Current situation

There are a considerable number of statutes relating to the dual employment and dual compensation of Federal civilian and retired military personnel. The earliest of these was enacted in 1894; the most recent, in 1961. These statutes are complicated; some are overlapping, some are inconsistent, and a number are no longer realistic in the light of current conditions. Because the basic statutes arbitrarily restrict employment and are out of date, many special exceptions have been sought and granted.

The basic intent of the early dual employment and dual compensation laws was not to prohibit entirely the dual employment of civilian employees or the hiring of retired military personnel. The purpose was primarily to limit such employment to a reasonable extent—reasonable from the points of view of both the Government and the employee. When the present dollar limits were set many years ago, they represented a reasonable annual income for one person; however, because of the differences between today's salary levels and living costs and those of 60 (or even 20) years ago, the restrictions now serve as a bar rather than a limitation. Thus, the present effect of the basic statutes differs markedly from that originally intended.

A second consequence of the rigid limits in the basic laws has been the enactment, over the years, of legislation to meet one special situation or another. While many of these statutes are identified as exceptions to the basic restrictions, they are not necessarily inconsistent with the original purpose of the Congress, which, as mentioned earlier, was to permit dual employment within reasonable limits. The cumulative effect of these various acts of Congress, however, is a body of law that fails to provide a consistent policy for the employment of Federal civilian personnel in more than one capacity or for the hiring of retired military personnel.

Employment of retired military personnel

The present restrictions on the employment of retired military personnel in civilian positions are inconsistent and inequitable and have no relation to the Government's hiring needs. Various categories of military retirees are exempted from the prohibitions and restrictions. All enlisted men, certain commissioned officers, and some warrant officers retired from military service may now be hired for Federal civilian jobs without restriction on the receipt of retired pay. At present, certain Regular officers and warrant officers retired for age or length of service are the only retirees who cannot hold Federal positions if either their retired pay or the salary of the position is \$2,500 a year or more. Disabled Regular officers whose disability was not incurred in combat or caused by an instrumentality of war in time of war are limited to a maximum combined rate of \$10,000 a year for Federal civilian salary and military retired pay.

Among the retired officers still subject to restrictions are many who possess special skills that are particularly valuable to the Government. Under present law, these skills, often developed at Government expense, are available and attracted to private industry but not to the Federal civil service.

The need for revision of the present restrictions is of long standing and has been widely recognized in both the legislative and executive

branches. In his last budget message to the Congress, President Eisenhower included this statement:

A number of outmoded and inconsistent statutes now regulate the employment and compensation of retired military personnel in civilian positions with the Government. We should replace this legal maze with a single rational statute which would eliminate unnecessary dual payments, adequately safeguard the civilian career service, and permit the Government to hire members of this group possessing needed skills under conditions that are fair to the individual.

The Subcommittee on National Policy Machinery of the Senate Committee on Government Operations in its report of February 28, 1961, on organizing for national security stated:

"An enormous Government investment has been poured into the training and experience of an outstanding retired military officer. In the present state of national need, this investment cannot be permitted to be thrown away. The dual compensation laws should be reviewed and amended."

Dual employment of civilians

The present restrictions on dual civilian employment also hamper effective Government manpower utilization. The Postmaster General may employ for postal duties, in addition to their regular duties, custodial employees who are under the jurisdiction of the General Services Administration at Federal buildings occupied in any part by the postal service, but he is prohibited from hiring other employees of other agencies for part-time work during the Christmas rush. The Agriculture and Interior Departments cannot hire critically needed and available Federal employees as emergency firefighters. These are voidable difficulties that should be eliminated.

Problems in administering present laws

Administrative difficulties under the present laws impede efficient Government management. The complexity of the statutes make economy of administration impossible. Agencies encounter continual problems in their efforts to make sure that existing restrictions are observed. The cost involved in attempting to reconcile the various statutes as applied to specific cases is known to be large, even though it cannot be accurately estimated for any given period of time. Numerous decisions of the Comptroller General have been required. Appointing, payroll, certifying, and disbursing officers must be conversant with a large body of highly complicated law.

Injustices to individuals have also occurred because of misinformation and erroneous conceptions of what the law requires. Private bills have been introduced in Congress to relieve cases of unusual hardship that have resulted from such situations.

At the present time, a situation exists where it may be necessary because of recent legal decisions, unless legislative relief is obtained, retroactively to subject approximately 500 retired commissioned Army of the United States officers and an unknown number of retired commissioned Air Force officers to the dual compensation restrictions of section 12 of the Economy Act of 1932. Similarly, under a recent Comptroller General decision, a number of retired temporary warrant

DUAL COMPENSATION ACT

officers have been found to be serving the Federal civilian positions in violation of the Dual Office Holding Act of 1894.

SUMMARY

Thus, the current situation is that the dual compensation-dual employment laws are inequitable, are difficult to administer, and prevent the Government from obtaining certain well-qualified personnel for hard-to-fill positions.

PROPOSED LEGISLATION

Employment of retired military personnel

The proposed law would repeal the statutory provisions which, in effect, prohibit certain categories of retired Regular officers from holding a Federal civilian job. The policy, expressed in several statutes, of limiting the amount of combined income from military retirement and civilian pay would be continued but would be modified to establish consistent treatment for all the various categories of retired military personnel. Limitations on combined compensation would be reasonable in terms of present salary levels and dollar values.

The proposed law would also establish a "fresh start" principle for retired military personnel employed in Federal civilian jobs. Since persons retiring from the military service have generally realized retirement benefits based on a military career, it seems desirable and equitable for them to start Federal civilian careers on the same basis as others who are also entering the civil service for the first time. Therefore, the bill would (a) require that their prior military service not be counted in computing length of service for reduction-in-force, leave, and retirement purposes, and (b) withhold veterans' preference. The purpose of the Veterans' Preference Act of 1944 was primarily to provide preference for civil service employment to those veterans who had interrupted their regular civilian careers to enter military service during time of war.

The proposed law would continue the principle of treating separately those retired military personnel whose retirement was based on disability resulting from an injury or disease received in line of duty as a direct result of armed conflict, or caused by an instrumentality of war and incurred in line of duty during a period of war. Such persons would not be subject to the limitations on combined compensation, would continue to receive veterans' preference, and would continue to receive credit for length of military service in computation of retention credits for reduction-in-force purposes. Similar treatment would be accorded retired military personnel who retire with less than 6 years of continuous full-time active duty. Such persons are typically (1) those whose military careers were cut short because of physical disability, or (2) those who were in the military service during a time of emergency and who continued to participate in the Reserve program after they returned to civilian life.

In view of the fact that there are certain occupations for which it is difficult to obtain well-qualified personnel, the proposed law would give the President authority to grant exceptions to the above-mentioned limitations on combined compensation. Exceptions could also be granted to meet emergency situations.

Those retired military personnel who are already employed in the Federal service would retain their present rights with regard to veterans' preference and credit for military service. They could elect either to remain subject to the present limitations on compensation or to come under the provisions of the proposed law.

The bill would also provide relief to a large number of retired commissioned and warrant officers holding temporary appointments in the Army and Air Force of the United States who are faced with the possibility of returning to the Government overpayments of military retired pay or civilian salary required by recent decisions that such retired members should have been considered subject to the restrictions (1) prescribed by section 212 of the Economy Act of 1932, in the case of the retired commissioned officers, and (2) prescribed in the act of July 31, 1894, in the case of the retired warrant officers.

It is recognized that there are some controversial issues involved in the employment of retired military personnel in Federal civilian positions. Some people maintain that a retired military person has earned his military retirement pay as a result of his military service; therefore, if he is employed by the Government in a civilian capacity he is entitled to both his full military retirement pay and the regular civilian pay for the position. Others believe that no person should receive retired pay and regular pay from a single employer at the same time. The proposed bill represents what seems to be a reasonable middle ground between these two points of view, by providing that \$2,000 of the retired pay, the approximate average nondisability retired pay received by enlisted personnel, plus one-half of the remainder, may be paid along with the regular pay for the civilian position.

This restriction on combined compensation would apply to most retired military personnel, including a number of categories to which no such restrictions now apply, but not to those whose retirement is based on disability resulting from armed conflict, or caused by an instrumentality of war in time of war, or to those whose retired pay is based on less than 6 years of continuous full-time active duty.

Some people also maintain that retired military personnel have an unfair advantage over other civilian employees in a reduction in force by reason of veterans' preference eligibility and credit for years of military service. This advantage had been eliminated by the "fresh start" principle explained above.

Dual employment of civilians

Those portions of the bill which deal with employment of civilian employees in more than one position may be less controversial but are no less important. The proposed law would limit civilian employees to one full-time job; part-time employees would be limited to a combination of part-time positions equaling one full-time position. The Commission would be authorized to grant exceptions to these restrictions when the Government could not otherwise readily obtain the needed services. This authority to grant exceptions would be used to meet situations of the kind which now have to be excepted by statute. An example is the exception, granted by law, which permits District of Columbia teachers to accept additional compensation for services rendered in connection with the operation of night schools in the public schools of the District of Columbia.

Summary

In summary, the proposed legislation would make an important source of skilled manpower available to the Government, would eliminate inequities in the treatment of retired military personnel, and would provide a single modern statute in place of a collection of overlapping and outdated laws.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION,
Washington, D.C., August 1, 1963.

Hon. TOM MURRAY,
Chairman, Committee on Post Office and Civil Service,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This replies to your request for the views of the National Aeronautics and Space Administration on the bill, H.R. 7381, to simplify, modernize, and consolidate the laws relating to the employment of civilians in more than one position and the laws concerning the civilian employment of retired members of the uniformed services, and for other purposes. The bill is identical with a draft submitted to the Congress under date of June 25, 1963, by the U.S. Civil Service Commission.

The Civil Service Commission, in its submission to the Congress, summarized the purpose of the bill as follows:

1. To authorize the employment of retired military personnel, and to permit such personnel to receive full civilian pay but to limit retired pay to the first \$2,000 of such retired pay plus one-half of the remainder, if any. The President would be given the authority to grant exceptions to this limitation on combined compensation if it is determined such exceptions are to be necessary in order to meet special or emergency Government employment needs.
2. To authorize a fresh-start principle with respect to retired military personnel who accept Federal civilian employment. With the exception of those whose retirement is based on disability as a result of armed conflict, or caused by an instrumentality of war in time of war, and of those whose retired pay is based on less than 6 years of continuous full-time active duty, retired military personnel would not receive veterans' preference nor would their military time count in computing leave, retirement, or reduction-in-force retention credits.
3. To continue the policies of exempting certain military personnel disabled in line of duty from the restrictions on employment of retired military personnel. Those retiring with less than 6 years of continuous active duty would also be exempted.
4. To limit civilian employees in the Federal Government to compensation for one full-time position, unless an exception to this restriction is granted by the Civil Service Commission on the basis of Government employment needs.
5. To make uniform, simplify, and consolidate in one law all statutory provisions relating to the Federal civilian employment of retired military personnel and the dual employment of Federal civilian employees.

The National Aeronautics and Space Administration is strongly of the opinion that the proposed legislation should be enacted (1) to

permit the Government to capitalize on certain skills, competence, and experience in the area of space science and technology of a sizable group of military personnel who have completed their service careers, (2) to correct inequities in the treatment of such personnel, and (3) to provide a single modern statute in place of a number of existing obsolete and confusing statutes. In particular, this legislation is needed to make available to NASA and other Federal agencies those retired military officers who possess abilities, skills and knowledge which are in short supply, and who are needed in civilian Government positions.

Many of the abilities and skills and much of the knowledge which are valuable to NASA are possessed only by certain military officers who have been closely associated with missile, rocket, and other space developments. A sizable number of these officers have been detailed to NASA while on active duty and have held important line positions in the NASA organization for periods of 2 or more years. However, since military officers are well aware of the dual-compensation statutory restrictions, they usually accept employment in private industry, where their services are in demand, when they retire from the military service. Collectively, this body of men, technically educated and skilled in aerospace research technology, represents a reservoir of knowledge and experience which constitutes a national asset of inestimable value. Unless a major segment of this limited group of specialists can be attracted to remain in the Government's space program, this asset will be dissipated and lost. On the other hand, by removing the financial penalty now imposed, many of this group will elect to continue in the space program and their skills and technical knowledge will not only be kept from dissipating but will be nurtured and enhanced.

While NASA is exempt from the dual-employment restrictions, our employees are subject to the dual-compensation statutes. Thus, one of the main decisions to be made by a retired military officer who is considering employment with NASA is whether he is willing to waive his military retirement pay, and thus accept a substantial financial penalty as compared to industrial employment, in order to continue to serve the Government.

Waiver of military retirement pay involves a significantly large annuity, particularly in the case of the higher level military officers who could be valuable assets to NASA's management team. The following cases are offered as examples. They bring into focus the significance of the loss of military retired pay:

(a) A colonel recently retired from the USAF; 23 years of military service in program management; 4 to 5 years as commander, test wing at Cape Canaveral during critical Thor-Atlas period; test commander at the Special Weapons Center. He was offered \$20,000 as an Assistant Director at the Manned Spacecraft Center, Houston, Tex. However, he declined in favor of a \$27,000 position with space technology laboratories, in which position he would still be able to draw his \$7,000 military retirement. Mr. Walter Williams of the Manned Spacecraft Center feels that the colonel would have accepted the NASA position if he could have retained all his retired pay.

(b) A U.S. Navy captain presently on military detail at the Manned Spacecraft Center as a branch chief (GS-15 position); served as range operations officer at Point Mugu, Calif.; served in

space surveillance, Dahlgren, Va.; experience appropriate to work in development of Apollo tracking network, including coordination with Jet Propulsion Laboratory, Goddard Space Flight Center, and military tracking systems. He has requested retirement from the Navy, and has indicated an interest in a position with NASA or any other Federal research and development agency. However, he would not consider such a position unless it was at the \$18,000 to \$20,000 level, in order to compensate for the loss of retired pay.

(c) A U.S. Navy captain presently on military detail at NASA headquarters as a division director; 23 years of military service. He is considering retirement from the Navy, and will be eligible for over \$6,000 retired pay, which he would have to waive if employed as a civilian in the Federal civil service under present restrictions.

(d) A retired U.S. Navy admiral presently employed in a top level administrative position in NASA. He is entitled to \$15,300 military retired pay, but was required to waive all except approximately \$750.

It should be remembered that the above represent only a few examples. As stated above, many officers because of their own knowledge of existing statutes regarding dual compensation do not apply to NASA or other Government agencies for employment. It is our opinion that this bill would increase the number of officers willing to accept further Government service in these particular shortage areas of aerospace technology at key project and program direction levels.

For the foregoing reasons, the National Aeronautics and Space Administration favors the enactment of H.R. 7381. The Bureau of the Budget has advised that there is no objection to the presentation of this report from the standpoint of the administration's program.

Thank you for your invitation to appear before the committee at 10 a.m., Tuesday, August 6, 1963. I will be most happy to be present to discuss this legislation with the committee.

Sincerely yours,

JAMES E. WEBB, *Administrator.*

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, July 15, 1963.

B-29000.

B-91556.

Hon. TOM MURRAY,
*Chairman, Committee on Post Office and Civil Service,
House of Representatives.*

DEAR MR. CHAIRMAN: Your letter of June 28, 1963, acknowledged July 5, requests our report upon an executive communication from the Chairman of the Civil Service Commission to the Speaker of the House of Representatives, submitting a draft of a proposed bill to simplify, modernize, and consolidate the laws relating to the employment of civilians in more than one position and the laws concerning the civilian employment of retired members of the uniformed services and for other purposes. On July 2 the Commission's bill was introduced by you as H.R. 7381. For convenience our comments will be addressed to the provisions of H.R. 7381.

H.R. 7381 is substantially the same as H.R. 12721, 87th Congress, upon which we submitted a report to your committee on December 7,

1962 (B-29000, B-19556). In that report we recognized that there is a need for a general revision of the existing statutory restrictions relating to the employment of retired military personnel in Federal civilian positions, since existing statutory restrictions are outmoded, unrealistic, inequitable, and in certain cases operate to impede the Government's procurement of the highly specialized skills and experience of certain retired military personnel. Similarly, we recognized in such report that the present limitation of \$2,000 per annum upon the concurrent receipt of more than one civilian salary and the \$2,500 dual-office limitation are outmoded and unrealistic.

In general, the bill would repeal existing statutory restrictions relating to dual employment and double compensation. The most important restrictions appear in section 2 of the act of July 31, 1894, as amended, 5 U.S.C. 62, precluding a person who holds an office the salary or annual compensation attached to which amounts to the sum of \$2,500 or more from holding any other office to which compensation is attached; section 212 of the act of June 30, 1932, as amended, 5 U.S.C. 59a, which places a limit of \$10,000 per annum upon the aggregate civilian compensation and retired pay for or on account of services as a commissioned officer that may be received in any year; and section 6 of the act of May 10, 1916, as amended, 5 U.S.C. 58, which provides that no money appropriated by any act shall be available for payment to any person receiving more than one salary when the combined amount of said salaries exceeds the sum of \$2,000 per annum. In their stead the bill would provide a single restriction relating to civilian employment of retired military personnel, and a single restriction relating to concurrent employment in two or more civilian positions.

The section designated "12" on line 20, page 2, should be designated as "102" and hereafter will be referred to as section "102." Section 102 of the bill provides, subject to certain enumerated exceptions, that a retired member of a uniformed service is entitled to hold a civilian position and receive the full pay of such position. In addition, he is entitled to receive the first \$2,000 of his retired pay plus one-half of that portion of his retired pay in excess of \$2,000 per annum. In general, section 201 of the bill would allow a civilian employee to receive compensation from more than one civilian position provided the basic number of hours worked in all such positions does not exceed 40 hours in any calendar week. The Civil Service Commission is authorized to issue regulations relaxing such restriction when it determines that needed services cannot otherwise be readily obtained. In our opinion the bill is a substantial improvement over existing law.

The term "civilian office" as defined in section 101(c) neither expressly includes nor excludes positions under armed services post exchanges and other nonappropriated fund activities. However, we doubt that such positions may be regarded as "in the U.S. Government" within the meaning of the definition. In the absence of a clear expression of legislative intent to the contrary, we would not construe the bill as applying to employees of such activities.

We note that section 102(a) does not prescribe the procedure to be followed in applying the "annual rate" limitation on retired pay when the period to which the limitation applies is less than a year. There-

fore, in our opinion, the monthly or daily equivalent of the "annual rate" limitation under the proposed legislation would be determined in accordance with the usual rules for computing a fractional year's pay as set forth in the act of June 30, 1906 (34 Stat. 763, 5 U.S.C. 84), and as construed by numerous decisions of our office.

Clause (2) of section 102(b) exempts from the restrictions contained in section 102(a) a retired member whose retired pay is "based on less than 6 years of continuous full-time active service."

There is no existing law authorizing retirement based upon less than 6 years of continuous full-time active service, and we have some doubt concerning the precise scope of the exemption. However, in the absence of clarification we would interpret clause (2) as exempting from the restrictions contained in section 102(a) any retired member whose retired pay is not based upon a continuous period of full-time active service for as long as 6 years, even though in aggregate such retired member may have many more than 6 years of full-time active service. If your intent in the matter is otherwise, we suggest that it be clarified either in the language of the bill itself or in your committee's report. We assume that it is intended that the language "based on less than 6 years of continuous full-time active service" be accorded the same meaning in the other places that it appears in the bill-- sections 103 and 104.

We note also that the language appearing in section 102(g) was not included in H R. 12721, 87th Congress. We understand that such language is designed to perfect the civilian appointments of the retired warrant officers to whom it applies retroactively to the date such appointments were made. This provision would overcome the holding in our decision of April 12, 1963, B-141989, that a retired temporary warrant officer is subject to the dual-office restriction contained in the act of July 31, 1894, as amended, 5 U.S.C. 62.

The Civil Service Commission is authorized to make exceptions to the 40-hour-work-per-week limitation contained in section 201 whenever it determines that services cannot otherwise be readily obtained. So far as employees of the Senate and House of Representatives or of the individual members thereof are concerned, you may wish to vest the responsibility for granting exceptions to the limitation in section 201 in some authority or authorities in the Senate and the House of Representatives, respectively, rather than the Civil Service Commission. Also, you may wish to grant similar responsibility to some authority in the judicial branch insofar as employees of U.S. judges are concerned.

Certain other matters of a technical nature have been brought informally to the attention of your committee staff which we understand presently is according consideration to such matters.

Sincerely yours,

JOSEPH CAMPBELL,
Comptroller General of the United States.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill (H.R. 7381), as reported, are shown as follows (existing law proposed to be

omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

**SECTION 12 OF THE VETERANS' PREFERENCE ACT OF 1944
(5 U.S.C. 861)**

SEC. 12. (a) In any reduction in personnel in any civilian service of any Federal agency, competing employees shall be released in accordance with Civil Service Commission regulations which shall give due effect to tenure of employment, military preference (*subject to subsection (b) of this section*), length of service, and efficiency ratings: *Provided, That, subject to subsection (c) of this section*, the length of time spent in active service in the armed forces of the United States of each such employee shall be credited in computing length of total service: *Provided further*, That preference employees whose efficiency ratings are "good" or better shall be retained in preference to all other competing employees and that preference employees whose efficiency ratings are below "good" shall be retained in preference to competing nonpreference employees who have equal or lower efficiency ratings: *And provided further*, That when any or all of the functions of any agency are transferred to, or when any agency is replaced by, some other agency, or agencies, all preference employees in the function or functions transferred or in the agency which is replaced by some other agency shall first be transferred to the replacing agency, or agencies, for employment in positions for which they are qualified, before such agency, or agencies, shall appoint additional employees from any other source for such positions.

(b) *Notwithstanding any other provision of this Act, an employee who is a retired member of any of the uniformed services included under section 2 of this Act shall be considered a preference employee for the purposes of subsection (a) of this section only if—*

(1) *his retirement was based on disability (A) resulting from injury or disease received in line of duty as a direct result of armed conflict or (B) caused by an instrumentality of war and incurred in the line of duty during a period of war (as defined in sections 101 and 301 of title 38, United States Code); or*

(2) *his service does not include twenty or more years of full-time active service (regardless of when performed but not including periods of active duty for training); or*

(3) *immediately prior to the effective date of this subsection, he was employed in a civilian office to which this Act applies and, on and after such date, he continues to be employed in any such office without a break in service of more than thirty days.*

(c) *In computing length of total service, an employee who is a retired member of any of the uniformed services shall be given credit for—*

(1) *the length of time in active service in the armed forces during any war, or in any campaign or expedition (for which a campaign badge has been authorized); or*

(2) *if he is included under clause (1), (2), or (3) of subsection (b) of this section, the total length of time in active service in the armed forces.*

**SECTION 203(a) OF THE ANNUAL AND SICK LEAVE ACT OF
1951 (5 U.S.C. 2062(a))**

ANNUAL LEAVE

SEC. 203. (a) Officers and employees to whom this title applies shall be entitled to annual leave with pay which shall accrue as follows--

(1) one-half day for each full biweekly pay period in the case of officers and employees with less than three years of service,

(2) three-fourths day for each full biweekly pay period (except that the accrual for the last full biweekly pay period in the year shall be one and one-fourth days) in the case of officers and employees with three but less than fifteen years of service, and

(3) one day for each full biweekly pay period in the case of officers and employees with fifteen years or more of service.

Except as otherwise provided in this subsection, in [In] determining years of service for the purposes of this subsection, there shall be included all service creditable under the provisions of section [5] 3 of the Civil Service Retirement Act [of May 29, 1930, as amended,] for the purposes of an annuity under such Act and the determination of the period of service rendered may be made upon the basis of an affidavit of the employee. Active military service of a retired member of any of the uniformed services is not creditable in determining years of service for the purpose of this subsection unless--

(1) his retirement was based on disability (A) resulting from injury or disease received in line of duty as a direct result of armed conflict or (B) caused by an instrumentality of war and incurred in the line of duty during a period of war (as defined in sections 101 and 301 of title 38, United States Code); or

(2) immediately prior to the effective date of this sentence, he was employed in a civilian office to which this Act applies and, on and after such date, he continued to be employed in any such office without a break in service of more than thirty days; or

(3) such service was performed in the armed forces during any war, or in any campaign or expedition (for which a campaign badge has been authorized). In the case of an officer or employee who is not paid on the basis of biweekly pay periods, the leave provided by this title shall accrue on the same basis as it would accrue if such officer or employee were paid on the basis of biweekly pay periods.

**SECTION 18 OF THE ACT OF DECEMBER 20, 1944, AS ADDED
BY SECTION 2 OF THE ACT OF AUGUST 19, 1950 (64 STAT.
466; D.C. CODE, SEC. 2-1226)**

SEC. 18. Notwithstanding the limitation of any other law or regulation to the contrary, any person heretofore or hereafter appointed as a member of the Commission may receive the compensation authorized by this Act to be paid to such member, as well as any retired pay, retirement compensation, or annuity to which such member may be entitled on account of previous service rendered to the United States or District of Columbia governments, *subject to section 201 of the Dual Compensation Act of 1963.*

**SECOND PARAGRAPH OF SECTION 2 OF THE ACT OF AUGUST
11, 1950 (64 STAT. 438; D.C. CODE, SEC. 6-1202)**

Notwithstanding the limitation of any law, there may be employed in such Office of Civil Defense any person who has been retired from any of the **[Armed Forces]** *uniformed services* of the United States or any office or position in the Federal or District governments, and *except as hereinafter provided*, while so employed in such Office of Civil Defense any such retired person may receive the compensation authorized for such employment or the **[retired pay,]** retirement compensation **[,]** or annuity, whichever he may elect, and upon the termination of **[his employment in such Office of Civil Defense,]** *such employment*, he shall be restored to the same status as a retired officer or employee with the same **[retired pay,]** retirement compensation **[,]** or annuity to which he was entitled before having been employed in such Office of Civil Defense. *While any person who has been retired from any of the uniformed services of the United States is so employed in such Office of Civil Defense, he may receive the compensation authorized for such employment and his retired or retirement pay, subject to section 201 of the Dual Compensation Act of 1963.*

**SECTION 13(b) OF THE PEACE CORPS ACT (75 STAT. 619;
22 U.S.C. 2512(b))**

EXPERTS AND CONSULTANTS

SEC. 13. (a) * * *

(b) Service of an individual as a member of the Council authorized to be established by section 12 of this Act or as an expert or consultant under subsection (a) of this section shall not be considered as service or employment bringing such individual within the provisions of section 281, 283, or 284 of title 18 of the United States Code, or of section 190 of the Revised Statutes (5 U.S.C. 99), or of any other Federal law imposing restrictions, requirements, or penalties in relation to the employment of persons, the performance of service, or the payment or receipt of compensation in connection with any claim, proceeding, or matter involving the United States Government, except insofar as such provisions of law may prohibit any such individual from receiving compensation in respect of any particular matter in which such individual was directly involved in the performance of such service; nor shall such service be considered as employment or holding of office or position bringing such individual within the provisions of section 13 of the Civil Service Retirement Act, as amended (5 U.S.C. 2263), **[section 212 of the Act of June 30, 1932, as amended (5 U.S.C. 59a),]** section 872 of the Foreign Service Act of 1946, as amended, or any other law limiting the reemployment of retired officers or employees or governing the simultaneous receipt of compensation and retired pay or annuities, *subject to section 201 of the Dual Compensation Act of 1963.*

**SECTION 44 OF THE ARMS CONTROL AND DISARMAMENT
ACT (75 STAT. 636; 22 U.S.C. 2584)**

CONFLICT OF INTEREST AND DUAL COMPENSATION LAWS

SEC. 44. The members of the General Advisory Committee created by section 26 of this Act, and the members of the advisory boards, the consultants, and the individuals of outstanding ability employed without compensation, all of which are provided in section 41 of this Act, may serve as such without regard to the provisions of section 281, 283, 284, or 1914 of title 18 of the United States Code, or of section 190 of the Revised Statutes (5 U.S.C. 99), or of any other Federal law imposing restrictions, requirements, or penalties in relation to the employment of individuals, the performance of services, or the payment or receipt of compensation in connection with any claim, proceeding, or matter involving the United States Government, except insofar as such provisions of law may prohibit any such individual from receiving compensation from a source other than a nonprofit educational institution in respect of any particular matter in which the Agency is directly interested. Nor shall such service be considered as employment or holding of office or position bringing such individual within the provisions of section 13 of the Civil Service Retirement Act (5 U.S.C. 2263), [section 212 of the Act of June 30, 1932, as amended (5 U.S.C. 59a),] or any other Federal law limiting the reemployment of retired officers or employees or governing the simultaneous receipt of compensation and retired pay or annuities, *subject to section 201 of the Dual Compensation Act of 1963.*

**SECTION 626(b) OF PART III OF THE ACT APPROVED
SEPTEMBER 4, 1961 (75 STAT. 451; 22 U.S.C. 2386(b))**

SEC. 626. EXPERTS, CONSULTANTS, AND RETIRED OFFICERS.—(a)
* * *

(b) Service of an individual as an expert or consultant under subsection (a) of this section shall not be considered as service or employment bringing such individual within the provisions of section 281, 283, or 284 of title 18 of the United States Code, or of section 190 of the Revised Statutes (5 U.S.C. 99), or of any other Federal law imposing restrictions, requirements, or penalties in relation to the employment of persons, the performance of services, or the payment or receipt of compensation in connection with any claim, proceeding, or matter involving the United States Government, except insofar as such provisions of law may prohibit any such individual from receiving compensation in respect of any particular matter in which such individual was directly involved in the performance of such service. Nor shall such service be considered as employment or holding of office or position bringing such individual within the provisions of section 13 of the Civil Service Retirement Act, as amended (5 U.S.C. 2263), [section 212 of Public Law 72-212, as amended (5 U.S.C. 59a),] section 872 of the Foreign Service Act of 1946, as amended, or any other law limiting the reemployment of retired officers or employees or governing the simultaneous receipt of compensation and retired pay or annuities, *subject to section 201 of the Dual Compensation Act of 1963.*

SECTION 28 OF THE ATOMIC ENERGY ACT OF 1954
(68 STAT. 926; 42 U.S.C. 2038)

SEC. 28. APPOINTMENT OF ARMY, NAVY, OR AIR FORCE OFFICERS.—Notwithstanding the provisions of any other law, any active officer of the Army, Navy, or Air Force may serve as Director of the Division of Military Application without prejudice to his commissioned status as such officer. Any such officer serving as Director of the Division of Military Application shall receive in addition to his pay and allowances, including special and incentive pays, an amount equal to the difference between such pay and allowances, including special and incentive pays, and the compensation prescribed in section 25. Notwithstanding the provisions of any other law, any active or retired officer of the Army, Navy, or Air Force may serve as Chairman of the Military Liaison Committee without prejudice to his active or retired status as such officer. [Any such officer serving as Chairman of the Military Liaison Committee shall receive, in addition to his pay and allowances, including special and incentive pays, or in addition to his retired pay, an amount equal to the difference between such pay and allowances, including special and incentive pays, or between his retired pay, and the compensation prescribed for the Chairman of the Military Liaison Committee.] *Any such active officer serving as Chairman of the Military Liaison Committee shall receive, in addition to his pay and allowances, including special and incentive pays, an amount equal to the difference between such pay and allowances, including special and incentive pays, and the compensation fixed for such Chairman. Any such retired officer serving as Chairman of the Military Liaison Committee shall receive the compensation fixed for such Chairman and his retired pay, subject to section 201 of the Dual Compensation Act of 1963.*

SECTION 204(d) OF THE NATIONAL AERONAUTICS AND SPACE ACT OF 1958 (72 STAT. 432; 42 U.S.C. 2474(d))

CIVILIAN-MILITARY LIAISON COMMITTEE

SEC. 204. (a) * * *

(d) Notwithstanding the provisions of any other law, any active or retired officer of the Army, Navy, or Air Force may serve as Chairman of the Liaison Committee without prejudice to his active or retired status as such officer. [The compensation received by any such officer for his service as Chairman of the Liaison Committee shall be equal to the amount (if any) by which the compensation fixed by subsection (a)(1) for such Chairman exceeds his pay and allowances (including special and incentive pays) as an active officer, or his retired pay.] *Any such active officer serving as Chairman of the Liaison Committee shall receive, in addition to his pay and allowances, including special and incentive pays, an amount equal to the difference between such pay and allowances, including special and incentive pays, and the compensation fixed by subsection (a)(1) for such Chairman. Any such retired officer serving as Chairman of the Liaison Committee shall receive the compensation fixed by subsection (a)(1) for such Chairman*

and his retired pay, subject to section 201 of the Dual Compensation Act of 1963.

SECTION 3(b)(1) OF THE ACT OF AUGUST 28, 1958 (72 STAT. 1091; PUBLIC LAW 85-850)

SEC. 3. (a) * * *

(b) The Commission shall be composed of eleven members appointed by the President as follows:

(1) One member, who shall serve as Chairman, and who shall be a resident from the area comprising the Savannah, Altamaha, Saint Marys, Apalachicola-Chattahoochee, and Perdido-Escambia River Basins (and intervening areas) embraced within the States referred to in the first section of this Act and who shall not, during the period of his service on the Commission, hold any other position as an officer or employee of the United States, except that a retired military officer or a retired Federal civilian officer or employee may be appointed under this Act without prejudice to his retired status, and he shall receive compensation as authorized herein in addition to his retired pay or annuity, but the sum of his retired pay or annuity and such compensation as may be payable hereunder shall not exceed \$12,000 in any one calendar year; status. A retired Federal civilian officer or employee appointed under this Act shall receive compensation as authorized herein in addition to his annuity, but the sum of his annuity and such compensation as may be payable hereunder shall not exceed \$12,000 in any one calendar year. A retired military officer appointed under this Act shall receive compensation, as authorized herein and his retired pay, subject to section 201 of the Dual Compensation Act of 1963;

SECTION 9 OF THE ACT OF OCTOBER 6, 1917 (40 STAT. 384; D.C. CODE, SEC. 31-631)

SEC. 9. [That section six of the legislative, executive, and judicial appropriation Act, approved May tenth, nineteen hundred and sixteen, as amended by the naval appropriation Act, approved August twenty-ninth, nineteen hundred and sixteen,] Section 301 of the Dual Compensation Act of 1963 shall not apply to teachers in the public schools of the District of Columbia who are also employed as teachers of night schools and vacation schools.

SECTION 6 OF THE ACT OF MARCH 3, 1925 (43 STAT. 1108), AS AMENDED BY THE ACT OF JANUARY 27, 1926 (44 STAT. 2; 2 U.S.C. 162; 5 U.S.C. 60)

SEC. 6. Employees of the Library of Congress who perform special functions for the performance of which funds have been entrusted to the board or the librarian, or in connection with cooperative undertakings in which the Library of Congress is engaged, shall not be subject to the proviso contained in the Act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1918, and for other purposes, approved

March 3, 1917, in Thirty-ninth Statutes at Large, at page 1106; [nor shall any additional compensation so paid to such employees be construed as a double salary under the provisions of section 6 of the Act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1917, as amended (Thirty-ninth Statutes at Large, page 582)] and section 301 of the Dual Compensation Act of 1963 shall not apply to any additional compensation so paid to such employees.

ACT OF JULY 1, 1942 (56 STAT. 467; D.C. CODE, SEC. 31-631a)

AN ACT To exempt custodial employees of the District of Columbia Board of Education from the operation of the provisions of section 6 of the Legislative, Executive, and Judicial Appropriation Act approved May 10, 1916

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, [That section 6 of the Act entitled "An Act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1917", approved May 10, 1916 (39th Stat. 120), and Acts amendatory thereto,] That section 301 of the Dual Compensation Act of 1963 shall not apply to the custodial employees who are in the employ of the Board of Education of the District of Columbia when such employees are performing work required of them in school buildings during the time these buildings are used for nonrecreational official purposes by any Federal agency or department of the District of Columbia government other than the Board of Education, in accordance with the rules of the Board of Education governing the use of school buildings and grounds, including their use for day or evening schools; and nothing therein contained shall be deemed to prevent any custodial employee from receiving in addition to his pay, salary, or compensation as an employee of the Board of Education of the District of Columbia any other pay, salary, or compensation at a rate not in excess of the rate of pay received as an employee of the Board of Education, for services which may have been rendered subsequent to May 31, 1941, or which may hereafter be rendered to any Federal agency or department of the District of Columbia government other than the Board of Education, during its use of school buildings under the jurisdiction of the Board of Education of the District of Columbia.

SECTION 2 OF THE ACT OF JULY 22, 1947 (61 STAT. 400, 74 STAT. 11; 33 U.S.C. 873)

SEC. 2. The Secretary of Commerce is hereby authorized to pay extra compensation to members of crews of vessels when assigned duties as instrument observer or recorder, and to employees of other Federal agencies while observing tides or currents, or tending seismographs or magnetographs, at such rates as may be specified from time to time by him and without regard to section 301 of the Dual Compensation Act of 1963.

**SECTION 3 OF THE ACT OF JUNE 2, 1948, AS AMENDED (62
STAT. 286, 74 STAT. 11; 15 U.S.C. 327)**

SEC. 3. The Secretary of Commerce is hereby authorized to (a) appoint employees for the conduct of meteorological investigations in the Arctic region without regard to the civil service laws and fix their compensation without regard to the Classification Act of 1949, as amended (5 U.S.C. 1071 and the following), and titles II and III of the Federal Employees Pay Act of 1945, as amended (5 U.S.C. 911 and the following), at base rates not to exceed the maximum scheduled rate for GS-12, and (b) grant extra compensation to employees of other Government agencies for taking and transmitting meteorological observations *without regard to section 301 of the Dual Compensation Act of 1963.*

**SECTION 10(b) OF THE DEFENSE DEPARTMENT OVERSEAS
TEACHERS PAY AND PERSONNEL PRACTICES ACT (73
STAT. 217; 5 U.S.C. 2358(b))**

APPLICABILITY OF CERTAIN EXISTING LAW

SEC. 10. (a) * * *

(b) In the case of any teacher who--

(1) is performing services as a teacher at the close of a school year,

(2) agrees in writing to serve as a teacher for the next school year, and

(3) is employed in another position in the recess period immediately preceding such next school year, or, during such recess period, receives quarters, allowances, or additional compensation referred to in sections 7 and 8 of this Act, or both, as the case may be,

section 2 of the Act of July 31, 1894 (5 U.S.C. 62), relative to the holding of more than one office, section 6 of the Act of May 10, 1916 (5 U.S.C. 58 and 59), relative to double salaries, and any other law relating to the receipt of more than one salary or the holding of more than one office] *301 of the Dual Compensation Act of 1963* shall not apply to such teacher by reason of any such employment during a recess period or any such receipt of quarters, allowances, or additional compensation, or both, as the case may be.

* * * * *

**SECTION 102 OF CHAPTER 7 OF TITLE 2, CANAL ZONE CODE
(76A STAT. 15)**

§ 102. Exemption of teachers with respect to dual offices and double salaries

[Section 2 of the Legislative, Executive, and Judicial Appropriation Act, approved July 31, 1894, as amended (28 Stat. 205; 5 U.S.C., sec. 62), and section 6 of the Legislative, Executive, and Judicial Appropriation Act, approved May 10, 1916, as amended (39 Stat. 120; 5 U.S.C., sec. 58), do] *Section 301 of the Dual Compensation Act of 1963* does not apply to teachers in the public schools of the Canal Zone who are also employed in night schools or in vacation schools or programs.

SECTION 23(b) OF TITLE 13, UNITED STATES CODE

§ 23. Additional officers and employees

(a) * * *

(b) In addition to employees of the Department of Commerce, employees of other departments and independent offices of the Government may, with the consent of the head of the respective department or office, be employed and compensated for field work in connection with the work provided for by law *without regard to section 301 of the Dual Compensation Act of 1963.*

SUBSECTIONS (a) AND (c) OF SECTION 3335 OF TITLE 39, UNITED STATES CODE

§ 3335. Dual employment and extra duties

(a) The Postmaster General may appoint an employee to more than one position and he shall pay compensation at the rate provided by law for each position, without regard to the provisions of [sections 58, 62, 69, and 70 of title 5] *sections 69 and 70 of title 5 and section 301 of the Dual Compensation Act of 1963.*

* * * * *

(c) The Postmaster General, with the consent of the Administrator of General Services, may appoint custodial employees working under the jurisdiction of the General Services Administration at Federal buildings occupied in part by the Postal Service to positions in the Postal Service to perform postal duties in addition to their regular duties as custodial employees, and he shall pay compensation to them at the rate provided by law without regard to [sections 58, 62, 69, and 70 of title 5] *sections 69 and 70 of title 5 and section 301 of the Dual Compensation Act of 1963.*

SECTION 1763 OF THE REVISED STATUTES (5 U.S.C. 58)

[SEC. 1763. No person who holds an office, the salary or annual compensation attached to which amounts to the sum of two thousand five hundred dollars, shall receive compensation for discharging the duties of any other office, unless expressly authorized by law.]

SECTION 2074 OF THE REVISED STATUTES (25 U.S.C. 50)

[SEC. 2074. No person shall hold more than one office at the same time under this Title, nor shall any agent, sub-agent, interpreter, or person employed under this Title, receive his salary while absent from his agency or employment, without leave of the superintendent, or Secretary of the Interior; but such absence shall at no time exceed sixty days.]

ACT OF JULY 27, 1882 (22 STAT. 176)

[AN ACT To authorize the preparation and publication of a classified, analytical, and descriptive catalogue of all government publications from July fourth, seventeen hundred and seventy-six, to March fourth, eighteen hundred and eighty-one

[Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there be prepared and published, under the direction of the Joint Committee on Printing, a classified, analytical, and descriptive catalogue of all publications made by the authority of the Government of the United States and the preceding government of the Colonies, and all departments, bureaus, and offices thereof, from July fourth, seventeen hundred and seventy-six, to March fourth, eighteen hundred and eighty-one; and upon the request of the said joint committee, the officers of the Senate and House of Representatives, and the heads of all the executive departments and of all the bureaus and offices thereof, shall furnish to said joint committee all such information and assistance in reference to said publications as will facilitate or assist in the completion of said work; and the sum of ten thousand dollars is hereby appropriated for the purposes of this act which sum may be expended as additional pay or compensation to any officer or employé of the United States.]

**THE SENTENCE IN THE ACT OF FEBRUARY 25, 1885
(23 STAT. 329)**

[And hereafter no consul or consul-general shall be entitled to or allowed any part of any salary appropriated for payment of a secretary or second secretary of legation or an interpreter.]

**SECTION 4395 OF THE REVISED STATUTES AS AMENDED
BY THE ACT OF JANUARY 20, 1888 (25 STAT. 1)**

[Sec. 4395. That there shall be appointed by the President, by and with the advice and consent of the Senate, a person of scientific and practical acquaintance with the fish and fisheries to be a Commissioner of Fish and Fisheries, and he shall receive a salary at the rate of five thousand dollars a year, and he shall be removable at the pleasure of the President. Said Commissioner shall not hold any other office or employment under the authority of the United States or any State.]

**JOINT RESOLUTION [NO. 3] OF FEBRUARY 5, 1889
(25 STAT. 1019)**

[JOINT RESOLUTION Accepting the invitation of the Imperial German Government to the Government of the United States to become a party to the International Geodetic Association

[Whereas, the Government of the United States has been invited by the Imperial German Government to become a party to the International Geodetic Association: Therefore,

[Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President be, and

he is hereby, requested and authorized to accept said invitation, and that he is hereby authorized and requested to appoint a delegate, who shall be an officer of the United States Geodetic and Coast Survey, to attend the next meeting of said International Geodetic Association, but no extra salary or additional compensation shall be paid to such by reason of such attendance.】

SECTION 2 OF THE ACT OF JULY 31, 1894 (28 STAT. 205), AS AMENDED BY THE ACT OF MAY 31, 1924 (43 STAT. 245), BY SECTION 6 OF THE ACT OF JULY 30, 1937 (50 STAT. 549), AND BY THE ACT OF JUNE 25, 1938 (52 STAT. 1194), RELATING TO THE HOLDING OF TWO OFFICES (5 U.S.C. 62)

【SEC. 2. That the pay of assistant messengers, firemen, watchmen, laborers, and charwomen provided for in this Act, unless otherwise specially stated, shall be as follows: For assistant messengers, firemen, and watchmen, at the rate of seven hundred and twenty dollars per annum each; for laborers, at the rate of six hundred and sixty dollars per annum each, and for charwomen, at the rate of two hundred and forty dollars per annum each. No person who holds an office the salary or annual compensation attached to which amounts to the sum of two thousand five hundred dollars shall be appointed to or hold any other office to which compensation is attached unless specially heretofore or hereafter specially authorized thereto by law; but this shall not apply to retired officers of the Army, Navy, Marine Corps or Coast Guard whenever they may be elected to public office or whenever the President shall appoint them to office by and with the advice and consent of the Senate. Retired enlisted men of the Army, Navy, Marine Corps, or Coast Guard retired for any cause, and retired officers of the Army, Navy, Marine Corps, or Coast Guard who have been retired for injuries received in battle or for injuries or incapacity incurred in line of duty shall not, within the meaning of this section, be construed to hold or to have held an office during such retirement.】

THE FIFTH PARAGRAPH OF THE ACT OF FEBRUARY 20, 1895 (28 STAT. 676)

* * * * *
【The compensation of said commissioners shall be fixed by the Secretary of the Treasury, but the same shall not exceed six dollars per day and actual traveling expenses: *Provided, however,* That the member of said commission appointed from the Treasury Department shall be paid only his actual traveling expenses.】
* * * * *

SECTION 7 OF THE ACT OF JUNE 3, 1896 (29 STAT. 235; 5 U.S.C. 63)

【SEC. 7. That section two of the Act making appropriations for the legislative, executive, and judicial expenses of the Government

for the fiscal year ending June thirtieth, eighteen hundred and ninety-five, and for other purposes, approved July thirty-first, eighteen hundred and ninety-four, shall not be so construed as to prevent the employment of any retired officer of the Army or Navy to do work under the direction of the Chief of Engineers of the United States Army in connection with the improvement of rivers and harbors of the United States, or the payment by the proper officer of the Treasury of any amounts agreed upon as compensation for such employment.】

SECTION 7 OF THE ACT OF JUNE 28, 1902 (32 STAT. 483)

【SEC. 7. That to enable the President to construct the canal and works appurtenant thereto as provided in this Act, there is hereby created the Isthmian Canal Commission, the same to be composed of seven members, who shall be nominated and appointed by the President, by and with the advice and consent of the Senate, and who shall serve until the completion of said canal unless sooner removed by the President, and one of whom shall be named as the chairman of said Commission. Of the seven members of said Commission at least four of them shall be persons learned and skilled in the science of engineering, and of the four at least one shall be an officer of the United States Army, and at least one other shall be an officer of the United States Navy, the said officers respectively being either upon the active or the retired list of the Army or of the Navy. Said commissioners shall each receive such compensation as the President shall prescribe until the same shall have been otherwise fixed by the Congress. In addition to the members of said Isthmian Canal Commission, the President is hereby authorized through said Commission to employ in said service any of the engineers of the United States Army at his discretion, and likewise to employ any engineers in civil life, at his discretion, and any other persons necessary for the proper and expeditious prosecution of said work. The compensation of all such engineers and other persons employed under this Act shall be fixed by said Commission, subject to the approval of the President. The official salary of any officer appointed or employed under this Act shall be deducted from the amount of salary or compensation provided by or which shall be fixed under the terms of this Act. Said Commission shall in all matters be subject to the direction and control of the President, and shall make to the President annually and at such other periods as may be required, either by law or by the order of the President, full and complete reports of all their actings and doings and of all moneys received and expended in the construction of said work and in the performance of their duties in connection therewith, which said reports shall be by the President transmitted to Congress. And the said Commission shall furthermore give to Congress, or either House of Congress, such information as may at any time be required either by Act of Congress or by the order of either House of Congress. The President shall cause to be provided and assigned for the use of the Commission such offices as may, with the suitable equipment of the same, be necessary and proper, in his discretion, for the proper discharge of the duties thereof.】

* * * * *

THE PARAGRAPH OF THE ACT OF MARCH 4, 1909 (35 STAT. 931), RELATING TO THE PAY OF RETIRED ARMY AND NAVY OFFICERS AND ENLISTED MEN THEN IN THE EMPLOY OF THE ISTHMIAN CANAL COMMISSION

[Authority is hereby granted for the payment of salaries and wages accrued or hereafter earned of retired army and navy officers and enlisted men now in the employment of the Isthmian Canal Commission, in addition to their retired pay, where their compensation under such employment does not exceed two thousand five hundred dollars per annum.]

THE SECOND PARAGRAPH UNDER THE CENTER HEADING "THE ISTHMIAN CANAL" WITH THE SIDE HEADING "NATIONAL WATERWAYS COMMISSION:" IN THE ACT OF AUGUST 5, 1909 (36 STAT. 130)

THE ISTHMIAN CANAL

* * * * *

[NATIONAL WATERWAYS COMMISSION: Any officer or employee of the Government heretofore or hereafter employed by the National Waterways Commission not to exceed three persons at any one time may receive compensation for such employment from the money appropriated for said commission, notwithstanding the provisions of Revised Statutes, sections seventeen hundred and sixty-three, seventeen hundred and sixty-four, and seventeen hundred and sixty-five, and the Act approved July thirty-first, eighteen hundred and ninety-four, entitled "An Act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June thirtieth, nineteen hundred and five, and for other purposes," and any other law whatsoever relating to such employment and compensation; and, in addition to the traveling and other expenses of members of the commission and their employees, the actual necessary expenses of persons detailed by any department or bureau of the Government while accompanying said commission on any inspection trip in the United States or elsewhere may be paid from the money appropriated for said commission.]

SECTION 12 OF THE ACT OF AUGUST 20, 1912 (37 STAT. 319; 7 U.S.C. 165)

[SEC. 12. That for the purpose of carrying out the provisions of this Act there shall be appointed by the Secretary of Agriculture from existing bureaus and offices in the Department of Agriculture, including the Bureau of Entomology, the Bureau of Plant Industry, and the Forest Service, a Federal Horticultural Board consisting of five members, of whom not more than two shall be appointed from any one bureau or office, and who shall serve without additional compensation.]

SECTION 6 OF THE ACT OF MAY 10, 1916 (39 STAT. 120; 5 U.S.C. 58), AS AMENDED BY THE ACT OF AUGUST 29, 1916 (39 STAT. 582; 5 U.S.C. 59)

[SEC. 6. That unless otherwise specially authorized by law, no money appropriated by this or any other Act shall be available for payment to any person receiving more than one salary when the combined amount of said salaries exceeds the sum of \$2,000 per annum, but this shall not apply to retired officers or enlisted men of the Army, Navy, Marine Corps, or Coast Guard, or to officers and enlisted men of the Organized Militia and Naval Militia in the several States, Territories, and the District of Columbia: *Provided*, That no such retired officer, officer, or enlisted man shall be denied or deprived of any of his pay, salary, or compensation as such, or of any other salary or compensation for services heretofore rendered, by reason of any decision or construction of said section six.]

SECTION 8 OF THE ACT OF MARCH 21, 1918 (40 STAT. 455-456)

[SEC. 8. That the President may execute any of the powers herein and heretofore granted him with relation to Federal control through such agencies as he may determine, and may fix the reasonable compensation for the performance of services in connection therewith, and may avail himself of the advice, assistance, and cooperation of the Interstate Commerce Commission and of the members and employees thereof, and may also call upon any department, commission, or board of the Government for such services as he may deem expedient. But no such official or employee of the United States shall receive any additional compensation for such services except as now permitted by law.]

SECTIONS 3 AND 4 OF THE WAR FINANCE CORPORATION ACT (40 STAT. 507; 15 U.S.C. 333 AND 334)

[SEC. 3. That the management of the Corporation shall be vested in a board of directors, consisting of the Secretary of the Treasury, who shall be chairman of the board, and four other persons, to be appointed by the President of the United States, by and with the advice and consent of the Senate. No director, officer, attorney, agent, or employee of the Corporation shall in any manner, directly or indirectly, participate in the determination of any question affecting his personal interests, or the interests of any corporation, partnership, or association, in which he is directly or indirectly interested; and each director shall devote his time, not otherwise required by the business of the United States, principally to the business of the Corporation. Before entering upon his duties, each of the four directors so appointed, and each officer, shall take an oath faithfully to discharge the duties of his office. Nothing contained in this or any other Act shall be construed to prevent the appointment as a director of the Corporation of any officer or employee under the United States or of a director of a Federal reserve bank.

【Of the four directors so appointed, the President of the United States shall designate two to serve for two years, and two for four years; and thereafter each director so appointed shall serve for four years. Whenever a vacancy shall occur among the directors so appointed, the person appointed director to fill any such vacancy shall hold office for the unexpired term of the member whose place he is selected to fill. Any director shall be subject to removal by the President of the United States. Three members of the board of directors shall constitute a quorum for the transaction of business.

【SEC. 4. That the four directors of the Corporation appointed as hereinbefore provided shall receive annual salaries, payable monthly, of \$12,000. Any director receiving from the United States any salary or compensation for services shall not receive as salary from the Corporation any amount which, together with any salary or compensation received from the United States, would make the total amount paid to him by the United States and by the Corporation exceed \$12,000.】

THE LAST PARAGRAPH UNDER THE HEADING "DISTRICT OF COLUMBIA." AND UNDER THE SUBHEADING "PUBLIC SCHOOLS." CONTAINED IN THE FIRST SECTION OF THE ACT OF JULY 8, 1918 (40 STAT. 823; D.C. CODE, SEC. 31-631)

DISTRICT OF COLUMBIA.

* * * * *

PUBLIC SCHOOLS.

* * * * *

【Section six of the legislative, executive, and judicial appropriation Act, approved May tenth, nineteen hundred and sixteen, as amended, shall not apply to employees of the community center department of the public schools of the District of Columbia.】

THE NINTH PARAGRAPH UNDER THE HEADING "DISTRICT OF COLUMBIA." AND UNDER THE SUBHEADING "PUBLC SCHOOLS." CONTAINED IN THE FIRST SECTION OF THE THIRD DEFICIENCY ACT, FISCAL YEAR 1920 (41 STAT. 1017; D.C. CODE, SEC. 31-631)

DISTRICT OF COLUMBIA.

* * * * *

PUBLIC SCHOOLS.

* * * * *

【Section 6 of the Legislative, Executive, and Judicial Appropriation Act approved May 10, 1916, as amended, shall not apply to employees of the school garden department of the public schools of the District of Columbia.】

**THE PROVISO CONTAINED IN THE PARAGRAPH UNDER THE
HEADING "BUREAU OF THE BUDGET" IN THE ACT OF
FEBRUARY 17, 1922 (42 STAT. 373; 5 U.S.C. 64)**

BUREAU OF THE BUDGET

Director, \$10,000: **[Provided, That section 2 of the Act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1895, and for other purposes, approved July 31, 1894, shall not be construed as having application to retired officers of the Army, Navy, Marine Corps, or Coast Guard who may be appointed to the offices created by section 207 of the Budget and Accounting Act, 1921, approved June 10, 1921, within the meaning of precluding payment to such officers of the difference in pay prescribed for such offices and their retired pay;]** Assistant Director, \$7,500; for all other necessary expenses of the bureau, including compensation of attorneys and other employees in the District of Columbia, printing, binding, telegrams, telephone service, law books, books of reference, periodicals, stationery, furniture, office equipment, other supplies, traveling expenses, street car fares, per diem in lieu of subsistence not exceeding \$4 for officers and employees while absent from the seat of government on official duty, \$137,300; in all \$154,800.

**SECTION 212 OF THE ACT OF JUNE 30, 1932 (47 STAT. 406),
AS AMENDED BY SECTION 3 OF THE ACT OF JULY 15, 1940
(54 STAT. 761), BY THE ACT OF FEBRUARY 20, 1954 (68
STAT. 18), BY SECTION 2 OF THE ACT OF AUGUST 4, 1955
(69 STAT. 498), BY SECTION 2201(11) OF THE ACT OF JUNE
17, 1957 (71 STAT. 158), AND BY SECTION 13(d) OF THE
ACT OF SEPTEMBER 2, 1958 (72 STAT. 1264)**

[LIMITATIONS ON AMOUNT OF RETIRED PAY

[SEC. 212. (a) After the date of the enactment of this Act, no person holding a civilian office or position, appointive or elective, under the United States Government or the municipal government of the District of Columbia or under any corporation, the majority of the stock of which is owned by the United States, shall be entitled, during the period of such incumbency, to retired pay from the United States for or on account of services as a commissioned officer in any of the services mentioned in the Pay Adjustment Act of 1922 [U.S.C., title 37], at a rate in excess of an amount which when combined with the annual rate of compensation from such civilian office or position, makes the total rate from both sources more than \$10,000; and when the retired pay amounts to or exceeds the rate of \$10,000 per annum such person shall be entitled to the pay of the civilian office or position or the retired pay, whichever he may elect. As used in this section, the term "retired pay" shall be construed to include credits for all service that lawfully may enter into the computation thereof.

[(b) This section shall not apply to any person whose retired pay, plus civilian pay, amounts to less than \$10,000: *Provided, That this*

section shall not apply to any regular or emergency commissioned officer retired for disability (1) incurred in combat with an enemy of the United States, or (2) caused by an instrumentality of war and incurred in line of duty during a period of war (as that term is used in chapter 11 of title 38, United States Code).】

ACT OF SEPTEMBER 13, 1940 (54 STAT. 885)

【JOINT RESOLUTION To authorize Jesse H. Jones, Federal Loan Administrator, to be appointed to, and to perform the duties of, the Office of Secretary of Commerce

【*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That notwithstanding any provision of law to the contrary, Jesse H. Jones, Federal Loan Administrator, may continue in such office and be appointed to, in the manner now provided by law, and may exercise the duties of the Office of Secretary of Commerce: *Provided*, That the total compensation to be paid him as Secretary of Commerce and as Federal Loan Administrator shall be that provided by law for the Secretary of Commerce.】

ACT OF MARCH 29, 1945 (59 STAT. 38)

【JOINT RESOLUTION Providing for the employment of Government employees for folding speeches and pamphlets, House of Representatives

【*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That notwithstanding the provisions of the Act of May 10, 1916, as amended by the Act of August 29, 1916, the Doorkeeper of the House of Representatives is hereby authorized during the Seventy-ninth Congress to employ, whenever necessary, the services of Government employees for folding speeches and pamphlets at the prevailing rates provided by law.】

**ACT OF AUGUST 10, 1946 (60 STAT. 978), AS AMENDED BY
THE ACT OF OCTOBER 29, 1951 (65 STAT. 662)**

【AN ACT To authorize the Veterans' Administration to appoint and employ retired officers without affecting their retired status, and for other purposes

【*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That notwithstanding section 2 of the Act of July 31, 1894 (28 Stat. 205), as amended (5 U.S.C. 62), or section 6 of the Act of May 10, 1916 (39 Stat. 120), as amended (5 U.S.C. 58, 59), the Administrator of Veterans' Affairs may appoint to, and employ in, any civilian office or position in the Veterans' Administration, and pay, any retired commissioned officer, or retired warrant officer, of the Army, Navy, Marine Corps, Coast Guard, Coast and Geodetic Survey, and Public Health Service. The retired status, office, rank, and grade of retired commissioned officers, or retired warrant officers, so appointed or employed and, except as provided in section 212 of the Act of June 30, 1932 (47 Stat. 406), as

amended (5 U.S.C. 59a), any emolument, perquisite, right, privilege, or benefit incident to or arising out of any such status, office, rank, or grade, shall be in no way affected by reason of such appointment to or employment in, or by reason of service in, or acceptance or holding of, any civilian office or position in the Veterans' Administration or the receipt of the pay thereof.

【SEC. 2. The authority to employ retired commissioned officers or retired warrant officers contained in section 1 of this Act shall be effective for a period of ten years from the date of enactment.】

THE FIFTH SENTENCE OF SECTION 3 OF THE RECONSTRUCTION FINANCE CORPORATION ACT, AS IN EFFECT ON JUNE 30, 1947 (47 STAT. 6), AND AS CONTINUED BY SECTION 3(a) OF SUCH ACT, AS AMENDED (61 STAT. 203, 62 STAT. 262; 15 U.S.C. 603(a))

SEC. 3. * * *

【Nothing contained in this or in any other Act shall be construed to prevent the appointment and compensation as an employee of the corporation of any officer or employee of the United States in any board, commission, independent establishment, or executive department thereof.】

SECTION 2 OF THE ACT OF JULY 11, 1947 (61 STAT. 311; D.C. CODE, SEC. 4-183)

【SEC. 2. Notwithstanding the limitations of existing law, the said Commissioners may appoint to, and employ in, the position of director of such band, any retired officer of the United States Army, Navy, Marine Corps, or Coast Guard, and such retired officer shall be entitled to receive, in addition to his retired pay, the compensation authorized by this Act to be paid to such director, such additional compensation to be payable from District of Columbia appropriations.】

* * * * *

SECTION 3 OF THE ACT OF APRIL 21, 1948, AS AMENDED (7 U.S.C. 438)

【SEC. 3. Until December 31, 1949,¹ the Secretary of the Army may detail to the Department of Agriculture such military personnel, including officers in the Veterinary Corps of the Medical Department, as he may determine with the Secretary of Agriculture to be desirable to effectuate the purposes of this Act or to safeguard the interest of the United States. Notwithstanding the limitations contained in existing law, retired officer personnel of the Department of the Army, if employed by the Department of Agriculture for the purposes of this Act only, may receive in addition to their retired pay civilian salary to the extent that the total from both sources does not exceed the pay and allowances received by such persons in the permanent grade last held by them prior to retirement.】

* * * * *

¹ The authority of section 3 was continued until December 31, 1949, by Department of Agriculture Appropriation Act, 1950.

SECTION 9 OF THE ACT OF JUNE 4, 1948 (62 STAT. 342; D.C. CODE, SEC. 2-1709)

SEC. 9. The Armory Board is authorized to employ and fix the compensation and term of a manager and such personnel as may be necessary in connection with the operation of the armory for the secondary purposes of this Act without regard to the provisions of the civil-service laws and Classification Act of 1923, as amended **■**, and without regard to any prohibition against double salaries contained in any other law **■**. Under the direction of the Board and with written authorization signed by the members thereof, said manager may exercise such of the powers vested in the Board by section 6 of this Act as the Board shall determine.

* * * * *

SECTION 5(f) OF THE CENTRAL INTELLIGENCE AGENCY ACT OF 1949, AS AMENDED (65 STAT. 89, 72 STAT. 337; 50 U.S.C. 403f(f)) ¹

GENERAL AUTHORITIES

SEC. 5. In the performance of its functions, the Central Intelligence Agency is authorized to—

* * * * *

■(f)(1) Notwithstanding section 2 of the Act of July 31, 1894 (28 Stat. 205), as amended (5 U.S.C.A. 62), or any other law prohibiting the employment of any retired commissioned or warrant officer of the armed services, the Agency is hereby authorized to employ and to pay the compensation of not more than fifteen retired officers or warrant officers of the armed services while performing service for the Agency, but while so serving such retired officer or warrant officer will be entitled to receive only the compensation of his position with the Agency, or his retired pay, whichever he may elect.

■(2) Nothing in this section shall limit or affect the appointment of and payment of compensation to retired officers or warrant officers not presently or hereafter prohibited by law. **■**

SECTION 103 OF THE AMERICAN-MEXICAN TREATY ACT OF 1950 (64 STAT. 847)

SEC. 103. There are hereby authorized to be appropriated to the Department of State for the use of the Commission, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the provisions of the Treaty of February 3, 1944, and other treaties and conventions between the United States of America and the United Mexican States, under which the United States Section operates, and to discharge the statutory functions and duties of the United States Section. Such sums shall be available for

¹ Section 5(f) of the Central Intelligence Agency Act was formerly section 6(f) of such Act and was redesignated as section 5(f) of such Act by section 21(b)(2) of the Government Employees Training Act (72 Stat. 337; Public Law 85-507).

construction, operation and maintenance of stream gaging stations, and their equipment and sites therefor; personal services and rent in the District of Columbia and elsewhere; services, including those of attorneys and appraisers, in accordance with the provisions of Section 15 of the Act of August 2, 1946 (5 U.S.C., sec. 55a), at rates for individuals not in excess of \$100 per diem and the United States Commissioner is hereby authorized, notwithstanding the provisions of any other Act, to employ as consultants by contract or otherwise without regard to the Classification Act of 1949, as amended, and the civil-service laws and regulations, retired personnel of the Armed Forces of the United States, who shall not be required to revert to an active status [, and who shall be entitled to receive, as compensation for such temporary service, the difference between the rates of pay established therefor and their retired pay during the period or periods of such temporary employment] ; travel expense, including, in the discretion of the Commissioner, expenses of attendance at meetings of organizations concerned with the activities of the Commission which may be necessary for the efficient discharge of the responsibilities of the Commission; hire, with or without personal services, of work animals, and animal-drawn and motor-propelled (including passenger) vehicles and aircraft and equipment; acquisition by donation, purchase, or condemnation, of real and personal property, including expenses of abstracts, certificates of title, and recording fees; purchase of ice and drinking water; inspection of equipment, supplies and materials by contract or otherwise; drilling and testing of foundations and dam sites, by contract if deemed necessary; payment for official telephone service in the field in case of official telephones installed in private houses when authorized under regulations established by the Commissioner; purchase of firearms and ammunition for guard purposes; and such other objects and purposes as may be permitted by laws applicable, in whole or in part, to the United States Section: *Provided*, That, when appropriations have been made for the commencement or continuation of construction or operation and maintenance of any such project, the United States Commissioner, notwithstanding the provisions of sections 3679, 3732, and 3733 of the Revised Statutes or any other law, may enter into contracts beyond the amount actually appropriated for so much of the work on any such authorized project as the physical and orderly sequence of construction makes necessary, such contracts to be subject to and dependent upon future appropriations by Congress.

* * * * *

SECTION 401(a) OF THE FEDERAL CIVIL DEFENSE ACT OF 1950, AS AMENDED (64 STAT. 1254; 50 U.S.C. APP. 2253(a))

ADMINISTRATIVE AUTHORITY

SEC. 401. For the purpose of carrying out his powers and duties under this Act, the Administrator is authorized to—

(a) employ civilian personnel for duty in the United States, including the District of Columbia, or elsewhere, subject to the civil-service laws, and to fix the compensation of such personnel in accordance with the Classification Act of 1949, as amended;

and, notwithstanding the provisions of any other law, except those imposing restrictions upon dual compensation, employ, in a civilian capacity, with the approval of the President, not to exceed twenty-five retired personnel of the armed services on a full- or part-time basis without loss or reduction of or prejudice to their retired status;】

* * * * *

SUBPARAGRAPH (g) OF THE THIRD PARAGRAPH OF THE ACT OF AUGUST 5, 1953 (67 STAT. 366), AS AMENDED BY THE ACT OF AUGUST 9, 1955 (69 STAT. 590), AND BY THE ACT OF AUGUST 28, 1957 (71 STAT. 457)

【(g) Notwithstanding section 2 of the Act of July 31, 1894, as amended (5 U.S.C. 62), section 212 of the Act of June 30, 1932, as amended (5 U.S.C. 59a) or any other Federal law, one retired officer of the services mentioned in the Career Compensation Act of 1949 may be appointed to any civilian office or position in the Corregidor-Bataan Memorial Commission created by the Act of August 5, 1953, as amended (36 U.S.C. 426), for a period of not to exceed five years, and receive retired pay as a retired officer and civilian compensation concurrently. The retired status, office, rank, or grade such retired officer may occupy or hold, or any emolument, prerequisite, right, privilege, or benefit, incident to or arising out of such status, office, rank or grade, shall be in no way affected by reason of such appointment to or employment in such Commission.】

SECTION 12 OF THE DISTRICT OF COLUMBIA TEACHERS' SALARY ACT OF 1955 (69 STAT. 529; D.C. CODE, SEC. 31-1541)

【SEC. 12. Notwithstanding any law or regulation to the contrary, the Board, on the written recommendation of the Superintendent of Schools, may employ not more than fifteen retired members of the armed services of the United States as teachers of military science and tactics in the public high schools of the District of Columbia, and such teachers so employed shall be entitled to compensation in accordance with the salary schedules in section 1 of this Act, in addition to their retired pay and allowances.】

SECTION 8 OF THE ACT OF SEPTEMBER 7, 1957 (71 STAT. 628; 36 U.S.C. 748)

【SEC. 8. Notwithstanding section 2, of the Act of July 31, 1894 (28 Stat. 205), as amended (5 U.S.C. 62), or section 6 of the Act of May 10, 1916 (39 Stat. 120), as amended (5 U.S.C. 58, 59), the Chairman of the Commission may appoint to, and employ in, any civilian office or position in the Commission, and pay, any retired commissioned officer, or retired warrant officer, of the Army, Navy, Marine Corps, Coast Guard, Coast and Geodetic Survey, or Public Health Service. The retired status, office, rank, and grade of retired

18
DUAL COMPENSATION ACT

commissioned officers or retired warrant officers, so appointed or employed and, except as provided in section 212 of the Act of June 30, 1932 (47 Stat. 406), as amended (5 U.S.C. 59a), any emolument, perquisite, right, privilege, or benefit incident to or arising out of any such status, office, rank, or grade, shall be in no way affected by reason of such appointment to or employment in, or by reason of service in, or acceptance or holding of, any civilian office or position in the Commission or the receipt of the pay thereof.】

* * * * *

SECTION 203(b)(11) OF THE NATIONAL AERONAUTICS AND SPACE ACT OF 1958 (72 STAT. 431; 42 U.S.C. 2473(b)(11))

FUNCTIONS OF THE ADMINISTRATION

SEC. 203. (a) * * *

(b) In the performance of its functions the Administration is authorized—

* * * * *

【(11) to employ retired commissioned officers of the armed forces of the United States and compensate them at the rate established for the positions occupied by them within the Administration, subject only to the limitations in pay set forth in section 212 of the Act of June 30, 1932, as amended (5 U.S.C. 59a);】

* * * * *

**SECTION 626(c) OF THE ACT OF SEPTEMBER 4, 1961
(75 STAT. 451; 22 U.S.C. 2386(c))**

SEC. 626. EXPERTS, CONSULTANTS, AND RETIRED OFFICERS.—(a)
* * *

* * * * *

【(c) Notwithstanding section 2 of the Act of July 31, 1894, as amended (5 U.S.C. 62), any retired officer of any of the services mentioned in the Career Compensation Act of 1949, as amended (37 U.S.C. 231 et seq.), may hold any office or appointment under this Act, but the compensation of any such retired officer shall be subject to the provisions of section 212 of Public Law 72-212, as amended.】

SECTION 201(d) OF CHAPTER 7 OF TITLE 2, CANAL ZONE CODE (76A STAT. 21)

§ 201. Compensation of persons in military, naval, or Public Health Service who serve Canal Zone Government or Panama Canal Company

(a) * * *

* * * * *

【(d) In the case of persons retired as members of a regular component of the armed forces or the Public Health Service of the United States who are appointed to or employed in positions in the Canal

Zone Government or the Panama Canal Company, the amount of their retired pay shall be deducted from the amount of their civilian salary or compensation. This subsection does not require the deduction of the retired pay of any warrant officer or enlisted man.】

SECTION 507 OF THE DEPARTMENT OF DEFENSE APPROPRIATION ACT, 1964 (77 STAT. 264; PUBLIC LAW 88-149)

SEC. 507. Appropriations for the Department of Defense for the current fiscal year shall be available for: (a) donations of not to exceed \$25 to each prisoner upon each release from confinement in military or contract prison and to each person discharged for fraudulent enlistment; (b) authorized issues of articles to prisoners, applicants for enlistment and persons in military custody; (c) subsistence of selective service registrants called for induction, applicants for enlistment, prisoners, civilian employees as authorized by law, and supernumeraries when necessitated by emergent military circumstances; (d) reimbursement for subsistence of enlisted personnel while sick in hospitals, (e) expenses of prisoners confined in non-military facilities; (f) military courts, boards, and commissions; (g) utility services for buildings erected at private cost, as authorized by law, and buildings on military reservations authorized by regulations to be used for welfare and recreational purposes; (h) exchange fees, and losses in the accounts of disbursing officers or agents in accordance with law; (i) expenses of Latin-American cooperation as authorized for the Navy by law (10 U.S.C. 7208); and (j) expenses of apprehension and delivery of deserters, prisoners, and members absent without leave, including payment of rewards of not to exceed \$25 in any one case【: *Provided*, That section 212 of the Act of June 30, 1932 (5 U.S.C. 59a), shall not apply to retired military personnel on duty at the United States Soldiers' Home】.

SECTION 4103(b) OF TITLE 38, UNITED STATES CODE

§ 4103. Appointments and compensation

(a) * * *

(b) The Chief Medical Director shall be the Chief of the Department of Medicine and Surgery and shall be directly responsible to the Administrator for the operations of the Department. He shall be a qualified doctor of medicine, appointed by the Administrator. 【Section 62 of title 5 of the United States Code shall not apply to any individual appointed Chief Medical Director before January 1, 1964; however, section 59a of title 5 shall apply, in accordance with its terms, to any such individual.】 During the period of his service as such, the Chief Medical Director shall be paid a salary of \$21,050 a year.

○

**MODERNIZATION OF DUAL-COMPENSATION AND
DUAL-EMPLOYMENT LAWS**

HEARING
BEFORE THE
SUBCOMMITTEE ON CIVIL SERVICE
OF THE
COMMITTEE ON
POST OFFICE AND CIVIL SERVICE
UNITED STATES SENATE
EIGHTY-EIGHTH CONGRESS
FIRST SESSION
ON
S. 1912 and H.R. 7381
BILLS TO SIMPLIFY, MODERNIZE, AND CONSOLIDATE THE
LAWS RELATING TO THE EMPLOYMENT OF CIVILIANS IN
MORE THAN ONE POSITION AND THE LAWS CONCERNING
THE CIVILIAN EMPLOYMENT OF RETIRED MEMBERS OF
THE UNIFORMED SERVICES, AND FOR OTHER PURPOSES

DECEMBER 12, 1963

Printed for the use of the Committee on Post Office and Civil Service



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MODERNIZATION OF DUAL-COMPENSATION AND DUAL-EMPLOYMENT LAWS

THURSDAY, DECEMBER 12, 1963

U.S. SENATE,
SUBCOMMITTEE ON CIVIL SERVICE OF THE
COMMITTEE ON POST OFFICE AND CIVIL SERVICE,
Washington, D.C.

The subcommittee met at 10:15 a.m., pursuant to call, in room 6202, New Senate Office Building, Senator Ralph Yarborough (chairman of the subcommittee) presiding.

Present: Senators Yarborough, Randolph, and Boggs.

Present also: William Gullledge, staff director; David Minton, staff member; and Frank Paschal, minority clerk.

Senator YARBOROUGH. Gentlemen, the Civil Service Subcommittee will come to order.

These hearings are convened to hear testimony on S. 1912, a bill to simplify, modernize, and consolidate the laws relating to the employment of civilians in more than one position and laws concerning the civilian employment of retired members of the uniformed services.

I believe this was originally the administration bill. There have been changes and suggested changes.

A bill similar in design, H.R. 7381, has been reported by the Committee on Post Office and Civil Service in the House of Representatives and is presently pending before the other body, and in all likelihood will be acted upon before hearings might be completed and committee action completed here.

(The bills referred to follow:)

[S. 1912, 88th Cong., 1st sess.]

A BILL To simplify, modernize, and consolidate the laws relating to the employment of civilians in more than one position and the laws concerning the civilian employment of retired members of the uniformed services, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Dual Compensation Act of 1963".

(e) Notwithstanding the provisions of subsection (a) of this section, a retired member of a uniformed service holding a civilian office on the day before the effective date of this Act may elect either to remain subject only to the limitations on compensation, if any, applicable to him on the day before the effective date of this Act (or made applicable to him retroactively by subsection (f) of this section), or to come within the limitations of this section. Such an election is irrevocable, and must be filed with the department by which the retired pay is paid no later than ninety days after the effective date of this Act. A retired member who does not make a positive election will be considered to have elected to remain subject to the limitations, if any, applicable on the day before the effective date of this Act. An election to remain subject to the limitations on compensation in effect on the day before the effective date of this Act lapses and may not be renewed with respect to any reappointment or reinstatement made

after the effective date of this Act and involving a break in service of more than thirty days.

(f) A member of the uniformed services serving in the Army or Air Force of the United States without component—under an appointment made under section 516 of the Officer Personnel Act of 1947—in a temporary grade higher or the same as the reserve commission he then held and who prior to the effective date of this Act was retired for physical disability in such temporary grade shall not be considered to have been subject to the restriction on the concurrent receipt of civilian compensation and retired pay contained in section 212 of the Act of June 30, 1932, as amended (5 U.S.C. 59a), for any period following such retirement.

(g) A non-Regular member of an armed force who served on active duty in a temporary warrant officer grade, and who was retired in that status prior to the effective date of this Act, shall not be considered to have been subject to the restriction of section 2 of the Act of July 31, 1904, as amended (5 U.S.C. 62), for any period before the effective date of this Act.

Sec. 103. (a) Section 2 of the Veterans' Preference Act of 1944 (5 U.S.C. 851) is amended by inserting before the first word of the section the symbol "(a)," and immediately following the words "preference shall be given" a comma and the phrase "except as provided by subsection (b)."

(b) Section 2 is further amended by adding the following subsection:

"(b) A retired member of a uniformed service, as defined in the Dual Compensation Act of 1963, appointed, or reinstated or reemployed after the effective date of the Dual Compensation Act of 1963 with a break in service of more than thirty days, shall be given preference only if (1) his retirement was based on disability resulting from an injury or disease received in line of duty as a direct result of armed conflict, or caused by an instrumentality of war and incurred in line of duty during a period of war (as that term is defined in 38 U.S.C. 101, 301); (2) his retired pay was based on less than six years of continuous full-time active service not including periods of active duty for training; or (3) his retirement was effected under chapter 67, title 10 of the United States Code subsequent to such appointment, reinstatement, or reemployment."

TITLE I—DEFINITIONS AND EMPLOYMENT OF RETIRED MEMBERS OF UNIFORMED SERVICES

SEC. 101. As used in this Act—

(a) "member" and "uniformed services" have the definitions given them by section 101 of title 37, United States Code;

(b) "a retired member of a uniformed service" means, unless otherwise specified, a member or former member of a uniformed service who is entitled, under any provision of law, to retired, retirement, or retainer pay on account of his service as a member of a uniformed service; and

(c) "civilian office" means any civilian office or position, appointive or elective, in the United States Government, the municipal government of the District of Columbia, or any corporation which is owned or controlled by the United States Government, including temporary, part-time and intermittent positions.

SEC. 102. (a) Except as provided by subsections (b), (c), and (d) of this section, a retired member of a uniformed service shall receive the full salary of any civilian office which he holds but, during a period he is receiving salary, his retired, retirement, or retainer pay shall be reduced to an annual rate equal to the first \$2,000 of such pay plus one-half of the remainder, if any.

(b) The reduction in retired, retirement, or retainer pay required by subsection (a) of this section shall not apply to a retired member of a uniformed service (1) whose retirement was based on disability resulting from an injury or disease received in line of duty as a direct result of armed conflict, or caused by an instrumentality of war and incurred in line of duty during a period of war (as that term is defined in 38 U.S.C. 101, 301); or (2) whose retired pay was based on less than six years of continuous full-time active service not including periods of active duty for training.

(c) The reduction in retired, retirement, or retainer pay required by subsection (a) of this section shall not apply to employment of a retired member of a uniformed service on a temporary, part-time, or intermittent basis for the first thirty days of such employment for which he receives salary; however, this subsection shall not apply to more than thirty such days in any fiscal year.

(d) Exceptions to the restrictions in subsection (a) of this section may be provided under regulations prescribed by the President whenever it is determined that exceptions are warranted on the basis of special or emergency Government employment needs which cannot otherwise be readily met.

(c) Section 12 of the Veterans' Preference Act of 1944 (5 U.S.C. 861) is amended by inserting before the first word the symbol "(a)" and by inserting in the first proviso of the first paragraph after the word "That" the words, "except as provided in subsection (b)."

(d) Section 12 is further amended by adding subsection (b) as follows:

"(b) In computing length of total service, a retired member of a uniformed service appointed, or reinstated or reemployed with a break in service of more than thirty days, after the effective date of the Dual Compensation Act of 1963, shall be given credit for the length of time spent in active service in the uniformed services only if (1) his retirement was based on disability resulting from an injury or disease received in line of duty as a direct result of armed conflict, or caused by an instrumentality of war and incurred in line of duty during a period of war (as that term is defined in 38 U.S.C. 101, 301); (2) his retired pay was based on less than six years of continuous full-time active service not including periods of active duty for training; or (3) his retirement was effected under chapter 67, title 10 of the United States Code subsequent to such appointment, reinstatement, or reemployment."

SEC. 104. The portion of section 3(b) of the Civil Service Retirement Act, as amended (5 U.S.C. 2253(b)), appearing before the phrase, "for purposes of section 9(c) (1)" is amended to read as follows:

"(b) An employee or Member shall be allowed credit for periods of military service prior to the date of the separation upon which title to annuity is based; however, if the employee or Member is awarded retired pay on account of military service, his military service shall not be included except as hereinafter provided. If the retired pay is awarded on account of disability resulting from an injury or disease received in line of duty as a direct result of armed conflict, or caused by an instrumentality of war and incurred in line of duty during a period of war (as that term is defined in sections 101 and 301 of title 38, United States Code), his military service shall be included. If the retired pay is awarded under chapter 67, title 10, United States Code (1) his military service performed before the effective date of the Dual Compensation Act of 1963 shall be included, and (2) if he has a total of less than six years of continuous active duty (regardless of when performed but not including periods of active duty for training), his military service performed on and after the effective date of the Dual Compensation Act of 1963 shall be included. Notwithstanding the foregoing."

SEC. 105. The last two sentences of section 203(a) of the Annual and Sick Leave Act of 1951 (5 U.S.C. 2062(a)) are amended to read as follows: "In determining years of service for the purposes of this subsection, there shall be included all service creditable under the provisions of section 3 of the Civil Service Retirement Act for the purposes of an annuity under such Act and the determination of the period of service rendered may be made upon the basis of an affidavit of the employee. Active military service of a retired member of a uniformed service is not creditable in determining years of service for the purpose of this subsection unless such military service is creditable under section 3(b) of the Civil Service Retirement Act toward annuity concurrently with receipt of retired pay. In the case of an officer or employee who is not paid on the basis of biweekly pay periods, the leave provided by this title shall accrue on the same basis as it would accrue if such officer or employee were paid on the basis of biweekly pay periods."

TITLE II—LIMITATION ON DUAL COMPENSATION FOR MORE THAN ONE CIVILIAN OFFICE

SEC. 201. An officer or employee may not receive basic compensation for more than one civilian office for more than forty hours' work in any one calendar week (Sunday through Saturday), except as authorized under regulations of the United States Civil Service Commission, when the Commission determines that services cannot otherwise be readily obtained.

SEC. 202. Section 201 of this title does not apply to—

- (1) compensation on a when-actually-employed basis received from more than one consultant or expert position, as long as such dual compensation is not received for the same hours of the same day;

- (2) compensation by fees paid on other than a time basis;
- (3) compensation received by teachers, school officers, and custodial employees of the Board of Education of the District of Columbia for services rendered in connection with the operation of night or vacation schools in the public schools of the District of Columbia;
- (4) compensation received by custodial employees of the Board of Education of the District of Columbia for the services rendered in school buildings to any Federal department or agency, or any department of the government of the District of Columbia other than the Board of Education, during its use of school buildings in accordance with the rules of the Board of Education governing the use of such buildings;
- (5) compensation received by teachers in the public schools of the District of Columbia for employment during the summer vacation period;
- (6) extra compensation paid by the Weather Bureau to employees of other Government agencies for taking and transmitting meteorological observations;
- (7) compensation paid by the Department of Commerce to its employees and the employees of other departments and independent offices of the Government who are employed, with the consent of the head of the respective department or office, in fieldwork in connection with the work provided for in title 13 of the United States Code, as authorized prior to the enactment of this Act by section 23(b) of title 13, United States Code; and compensation paid to enlisted men and officers of the armed services who may be appointed and compensated for the enumeration of the personnel of the Armed Forces, as authorized prior to the enactment of this Act by section 24(a) of title 13, United States Code;
- (8) extra compensation paid by the Coast and Geodetic Survey to employees of other Federal agencies making oceanographic observations or tending seismographs;
- (9) compensation paid to employees of the Library of Congress for performing special functions for which funds have been entrusted to the board or the Librarian or that are in connection with the cooperative undertakings of the Library;
- (10) compensation received by persons serving in more than one position on the effective date of this Act under properly authorized appointments, so long as such appointments continue;
- (11) any teacher employed under the provisions of the Defense Department Overseas Teachers Pay and Personnel Practices Act (5 U.S.C. 2351-2358) who (1) is performing services as a teacher at the close of a school year, (2) agrees in writing to serve as a teacher for the next school year, and (3) is employed in another position in the recess period immediately preceding such next school year, or during such recess period, receives quarters, allowances, or additional compensation referred to in sections 7 and 8 of such Act, or both, as the case may be; and
- (12) compensation paid by the United States Coast Guard to employees occupying part-time positions of lamp-lighters.

TITLE III—EFFECTIVE DATE, AMENDMENTS AND REPEALERS

SEC. 301. The provisions of this Act take effect on January 1, 1964.

SEC. 302. If any part of this Act shall be found to be unconstitutional, the rest of it shall be considered as in full force and effect.

SEC. 303. The following parts of laws are amended:

(a) Section 18 of the Act of December 20, 1941, as added by the Act of August 19, 1950 (2 D.C. Code 1226), relating to members of the District of Columbia Boxing Commission, is amended by changing the period to a comma and adding the following: "except as provided in the Dual Compensation Act of 1963 with respect to retired personnel of the uniformed services."

(b) Section 29 of the Act of August 10, 1956, as amended (5 U.S.C. 30r), is amended by inserting in subsection (c), immediately after the words "Any Reserve or member of the National Guard may accept any civilian position under the United States or the District of Columbia and," the following: "except as provided in the Dual Compensation Act of 1963 with respect to retired personnel,"; and by changing the period at the end of subsection (d) to a comma and adding the following: "except as provided in the Dual Compensation Act of 1963 with respect to retired personnel."

(c) Section 3 of the Act of June 20, 1874, 18 Stat. 109, as amended (5 U.S.C. 71), is amended to read as follows: "No officer or employee in any branch of the public service whose compensation and allowances are fixed by law or regulation shall receive any additional pay, allowances or perquisites directly or indirectly in any form whatever for the performance of the duties of his position unless the same is authorized by law, and no such officer or employee shall receive any compensation, allowances or perquisites for the discharge of the duties of any position other than one to which he has been appointed unless expressly authorized by law."

(d) Subsections (a) and (c) of section 3335, title 39, U.S. Code, are amended by striking out "sections 58, 62, 69, and 70 of title 5" and substituting in lieu thereof "section 201 of the Dual Compensation Act of 1963."

(e) Section 102 of title II, Canal Zone Code (76A Stat. 15), is amended by striking out the language which precedes "not apply to teachers in the public schools of the Canal Zone who are employed in night schools or in vacation schools or programs," and inserting in lieu thereof "Section 201 of the Dual Compensation Act of 1963 does."

(f) Section 13(b) of the Peace Corps Act, approved September 22, 1961 (75 Stat. 619-620), is amended by striking out the phrase "section 212 of the Act of June 30, 1932, as amended (5 U.S.C. 59a)," and by changing the period at the end of the section to a comma and adding the following: "except as provided in the Dual Compensation Act of 1963."

(g) Section 44 of the Arms Control and Disarmament Act, approved September 26, 1961 (75 Stat. 636), is amended by striking out the phrase "section 212 of the Act of June 30, 1932, as amended (5 U.S.C. 59a)," and by changing the period at the end of the section to a comma and adding the following: "except as provided in the Dual Compensation Act of 1963."

(h) Section 626(b), second sentence, of the Act of September 4, 1961 (75 Stat. 451; 22 U.S.C. 2386(b)), relating to certain service under the Act for International Development of 1961 and the International Peace and Security Act of 1961, is amended by striking out the phrase "section 212 of Public Law 72-212, as amended (5 U.S.C. 59a)," and by changing the period at the end of the sentence to a comma and adding the following: "except as provided in the Dual Compensation Act of 1963."

SEC. 304. (a) The following laws and parts of laws are repealed:

(1) Section 1763 of the Revised Statutes (5 U.S.C. 58), relating to the receipt of compensation from more than one office.

(2) Section 1764 of the Revised Statutes (5 U.S.C. 69), relating to additional compensation for extra services.

(3) Section 1765 of the Revised Statutes (5 U.S.C. 70), relating to additional compensation for any person whose salary is fixed by law or regulation.

(4) Section 2074 of the Revised Statutes (25 U.S.C. 50), prohibiting the holding of two offices under title XXVIII of the Revised Statutes.

(5) The Act of July 27, 1882 (22 Stat. 176), authorizing additional compensation for Government employees engaged in cataloging Government publications by the Joint Committee on Printing.

(6) The following sentence in the Act of February 25, 1885 (23 Stat. 329): "And hereafter no consul or consul-general shall be entitled to or allowed any part of any salary appropriated for payment of a secretary or second secretary of legation or an interpreter."

(7) The Act of January 20, 1888 (25 Stat. 1), providing for the appointment of a Commissioner of Fish and Fisheries who shall not hold any other office.

(8) Joint Resolution Numbered 3 of February 5, 1889 (25 Stat. 1019), authorizing the President to appoint an officer of the United States Coast and Geodetic Survey as a delegate to the International Geodetic Association, who was to serve without extra salary or additional compensation.

(9) Section 2 of the Act of July 31, 1894 (28 Stat. 205), as amended by the Act of May 31, 1924 (43 Stat. 245), by section 6 of the Act of July 30, 1937 (50 Stat. 549), and by the Act of June 25, 1938 (52 Stat. 1194), relating to the holding of two offices (5 U.S.C. 62).

(10) That part of the Act of February 20, 1895 (28 Stat. 676), providing for the compensation of the members of a commission to recommend the location of the building authorized by the Act.

(11) Section 7 of the Act of June 3, 1896 (29 Stat. 235; 5 U.S.C. 63), relating to the employment of retired officers of the Army and Navy in connection with river and harbor improvements.

(12) That part of section 7 of the Act of June 28, 1902 (32 Stat. 483), providing for the appointment and compensation of officers of the Army and Navy to and under the Isthmian Canal Commission.

(13) The paragraph of the Act of March 4, 1909 (35 Stat. 931), relating to the pay of retired Army and Navy officers and enlisted men then in the employ of the Isthmian Canal Commission.

(14) The paragraph of the Act of August 5, 1909 (36 Stat. 130), authorizing the National Waterways Commission to pay not to exceed three officers or employees of the Government without regard to the Act of July 31, 1894, and other laws.

(15) Section 12 of the Act of August 20, 1912 (37 Stat. 319), to appoint members of a Federal Horticultural Board from among the employees of the Department of Agriculture.

(16) Section 6 of the Act of May 10, 1916 (39 Stat. 120; 5 U.S.C. 58), as amended by the Act of August 29, 1916 (39 Stat. 582; 5 U.S.C. 59), relating to double salaries.

(17) Section 9 of the Act of October 6, 1917 (40 Stat. 384; 31 D.C. Code 631), relating to the application of section 6 of the Act of May 10, 1916, to teachers in the public schools of the District of Columbia who also teach in night schools and vacation schools.

(18) Section 8 of the Act of March 21, 1918 (40 Stat. 455-456), authorizing the President to avail himself of the assistance of Government employees in the operation of transportation facilities taken over by the President.

(19) Sections 3 and 4 of the Act of April 5, 1918 (40 Stat. 507), authorizing the appointment of Federal employees to membership on the Board of Directors of the War Finance Corporation and providing for their compensation.

(20) The last paragraph under the heading "District of Columbia" and under the subheading "Public Schools" contained in the first section of the Act of July 8, 1918 (40 Stat. 823; 31 D.C. Code 631), relating to the application of section 6 of the Act of May 10, 1916, to employees of the community center department of the public schools of the District of Columbia.

(21) The ninth paragraph under the heading "District of Columbia" and under the subheading "Public Schools" contained in the first section of the Third Deficiency Act, fiscal year 1920 (41 Stat. 1017; 31 D.C. Code 631), relating to the application of section 6 of the Act of May 10, 1916, to employees of the school garden department of the public schools of the District of Columbia.

(22) The proviso contained in the paragraph under the heading "Bureau of the Budget" in the Act of February 17, 1922 (42 Stat. 373; 5 U.S.C. 64), relating to the application of section 2 of the Act of July 31, 1894, to retired officers of the Army, Navy, Marine Corps, or Coast Guard appointed to certain offices in the Bureau of the Budget.

(23) That part of section 6 of the Act of March 3, 1925 (43 Stat. 1108), as amended by the Act of January 27, 1926 (44 Stat. 2), relating to the application of section 6 of the Act of May 10, 1916, to employees of the Library of Congress (2 U.S.C. 162; 5 U.S.C. 60), which reads: "nor shall any additional compensation so paid to such employees be construed as a double salary under the provisions of section 6 of the Act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1917, as amended (39 Stat. 582)."

(24) Subparagraph (g) of the third paragraph in the Act of August 5, 1953 (67 Stat. 343), as amended by the Act of August 28, 1957 (71 Stat. 457), relating to the Corregidor-Bataan Memorial Commission.

(25) The fifth sentence of section 3 of the Reconstruction Finance Corporation Act, as in effect on June 30, 1947 (47 Stat. 6), and as continued by section 3(a) of such Act, as amended (61 Stat. 203, 62 Stat. 262; 15 U.S.C. 603 (a)), relating to employees of the Reconstruction Finance Corporation, which reads: "Nothing contained in this or in any other Act shall be construed to prevent the appointment and compensation as an employee of the Corporation of any officer or employee of the United States in any board, commission, independent establishment, or executive department thereof."

(26) Section 212 of the Act of June 30, 1932 (47 Stat. 406), as amended by section 3 of the Act of July 15, 1940 (51 Stat. 761), by the Act of February 20, 1954 (68 Stat. 18), by section 2 of the Act of August 4, 1955 (69 Stat. 498), by section 2201(11) of the Act of June 17, 1957 (71 Stat. 158), and by section 13(d) of the Act of September 2, 1958 (72 Stat. 1264), relating to the limitation on the amount of retired pay received for commissioned officer service when combined with Government civilian salary (5 U.S.C. 59a).

(27) The Act of September 13, 1940 (54 Stat. 885), authorizing Jesse H. Jones, Federal Loan Administrator, to exercise the duties of the Office of Secretary of Commerce.

(28) The Act of July 1, 1942 (56 Stat. 467; 31 D.C. Code 631(a)), relating to the application of section 6 of the Act of May 10, 1916, to custodial employees of the Board of Education of the District of Columbia.

(29) The Act of March 29, 1945 (59 Stat. 38-39), authorizing the Doorkeeper of the House of Representatives during the Seventy-ninth Congress to employ Government employees for folding speeches and pamphlets.

(30) The Act of August 10, 1946 (60 Stat. 978), as amended by the Act of October 29, 1951 (65 Stat. 662), relating to the appointment and employment of certain retired officers in the Veterans' Administration (5 U.S.C. 64a).

(31) Section 12 of the District of Columbia Teachers' Salary Act of 1955, approved August 5, 1955 (69 Stat. 529), relating to retired members of the armed services employed as teachers of military science and tactics.

(32) Section 626(c) of the Act of September 4, 1961 (75 Stat. 451; 22 U.S.C. 2386(c)), relating to retired officers employed under the Act for International Development of 1961 or the International Peace and Security Act of 1961.

(33) Subsection (d) of section 201, title II, Canal Zone Code (76A Stat. 21), relating to retired members of a regular component of the Armed Forces or the Public Health Service of the United States employed in the Canal Zone Government or the Panama Canal Company.

(34) The first proviso under the heading "Department of the Army" and under the subheading "Military Personnel" contained in title III of the Department of Defense Appropriation Act, 1958 (71 Stat. 313; Public Law 85-117), relating to retired military personnel on duty at the United States Soldiers' Home, which reads: "Provided, That section 212 of the Act of June 30, 1932 (5 U.S.C. 59a), shall not apply to retired military personnel on duty at the United States Soldiers' Home;" and provisions to the same effect contained in other appropriation Acts enacted prior to the date of the enactment of this Act relative to retired military personnel on duty at the United States Soldiers' Home (5 U.S.C. 59b).

(35) Section 23(b) of the Act of August 31, 1954 (68 Stat. 1014), as amended by section 2 of the Act of September 13, 1960 (74 Stat. 911), and section 24(c) of the Act of August 31, 1954 (68 Stat. 1015), as amended by section 3 of the Act of September 13, 1960 (74 Stat. 911), relating to the collection of census data (13 U.S.C. 23(b) and 24(c)).

(36) Section 10(b) of the Defense Department Overseas Teachers Pay and Personnel Practices Act (5 U.S.C. 2358(b)).

(37) Section 203(b)(11) of the National Aeronautics and Space Act of 1958, as amended (42 U.S.C. 2473(b)(11)), authorizing the employment of retired commissioned officers subject only to the limitations in pay set forth in section 59a of title 5, United States Code.

(38) That part of section 401(a) of the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2253(a)), which reads: "and, notwithstanding the provisions of any other law, except those imposing restrictions upon dual compensation, employ, in a civilian capacity, with the approval of the President, not to exceed twenty-five retired personnel of the armed services on a full- or part-time basis without loss or reduction of or prejudice to their retired status;"

(39) Section 5(f) of the Central Intelligence Agency Act of 1949, as amended (50 U.S.C. 403(f)), authorizing employment of not more than fifteen retired officers who must elect between civilian salary and retired pay.

(40) Section 2 of the Act of July 11, 1947 (61 Stat. 311), relating to the position of director of the band in the Metropolitan Police Force of the District of Columbia.

(41) That part of section 9 of the Act of June 4, 1948 (62 Stat. 342), relating to personnel of the Armory Board of the District of Columbia, which reads: "and without regard to any prohibition against double salaries contained in any other law."

(42) Section 3 of the Act of April 21, 1948 (62 Stat. 197), relating to the Remount Service in the Department of Agriculture.

(43) That part of the second sentence of section 103 of the Act of September 13, 1950 (64 Stat. 847), relating to the International Boundary and Water Commission, United States and Mexico, which reads: "and who shall be entitled to receive, as compensation for such temporary service, the difference between the rates of pay established therefor and their retired pay during the period or periods of such temporary employment."

(b) All other provisions of law inconsistent with or superseded by this Act are hereby repealed.

[Report No. 890]

[H. R. 7331, 88th Cong., 1st sess.]

[Strike out all after the enacting clause and insert the part printed in *italics*]

A BILL To simplify, modernize, and consolidate the laws relating to the employment of civilians in more than one position and the laws concerning the civilian employment of retired members of the uniformed services, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Dual Compensation Act of 1963".

TITLE I—DEFINITIONS AND EMPLOYMENT OF RETIRED MEMBERS OF UNIFORMED SERVICES

Sec. 101. As used in this Act—

(a) "member" and "uniformed services" have the definitions given them by section 101 of title 37 United States Code;

(b) "a retired member of a uniformed service" means unless otherwise specified a member or former member of a uniformed service who is entitled under any provision of law to retired, retirement, or retainer pay on account of his service as a member of a uniformed service; and

(c) "civilian office" means any civilian office or position, appointive or elective, in the United States Government, the municipal government of the District of Columbia, or any corporation which is owned or controlled by the United States Government, including temporary, part-time, and intermittent positions;

Sec. 12. (a) Except as provided by subsections (b), (c), and (d) of this section, a retired member of a uniformed service shall receive the full salary of any civilian office which he holds but, during a period he is receiving salary, his retired, retirement, or retainer pay shall be reduced to an annual rate equal to the first \$2,000 of such pay plus one-half of the remainder, if any;

(b) The reduction in retired, retirement, or retainer pay required by subsection (a) of this section shall not apply to a retired member of a uniformed service (1) whose retirement was based on disability resulting from an injury or disease received in line of duty as a direct result of armed conflict, or caused by an instrumentality of war and incurred in line of duty during a period of war (as that term is defined in 38 U.S.C. 101, 301); or (2) whose retired pay was based on less than six years of continuous full-time active service not including periods of active duty for training;

(c) The reduction in retired, retirement, or retainer pay required by subsection (a) of this section shall not apply to employment of a retired member of a uniformed service on a temporary, part-time, or intermittent basis for the first thirty days of such employment for which he receives salary; however, this subsection shall not apply to more than thirty such days in any fiscal year;

(d) Exceptions to the restrictions in subsection (a) of this section may be provided under regulations prescribed by the President whenever it is determined that exceptions are warranted on the basis of special or emergency Government employment needs which cannot otherwise be readily met;

(e) Notwithstanding the provisions of subsection (a) of this section, a retired member of a uniformed service holding a civilian office on the day before the effective date of this Act may elect either to remain subject only to the limitations on compensation: if any, applicable to him on the day before the effective date of this Act (or made applicable to him retroactively by subsection (f) of this section); or to come within the limitations of this section. Such an election is irrevocable, and must be filed with the department by which the retired pay is paid no later than ninety days after the effective date of this Act. A retired member who does not make a positive election will be considered to have elected to remain subject to the limitations, if any, applicable on the day before the effective date of this Act. An election to remain subject to the limitations on compensation in effect on the day before the effective date of this Act lapses and may not be renewed with respect to any reappointment or reinstatement made after the effective date of this Act and involving a break in service of more than thirty days.

(f) A member of the uniformed services serving in the Army or Air Force of the United States without component—under an appointment made under section 516 of the Officer Personnel Act of 1947—in a temporary grade higher or the same as the reserve commission he then held and who prior to the effective date of this Act was retired for physical disability in such temporary grade shall not be considered to have been subject to the restriction on the concurrent receipt of civilian compensation and retired pay contained in section 212 of the Act of June 30, 1932, as amended (5 U.S.C. 59a), for any period following such retirement.

(g) A nonregular member of an armed force who served on active duty in a temporary warrant officer grade and who was retired in that status prior to the effective date of this Act, shall not be considered to have been subject to the restriction of section 2 of the Act of July 31, 1894, as amended (5 U.S.C. 62), for any period before the effective date of this Act.

Sec. 103. (a) Section 2 of the Veterans' Preference Act of 1944 (5 U.S.C. 851) is amended by inserting before the first word of the section the symbol "(a)," and immediately following the words "preference shall be given" a comma and the phrase "except as provided by subsection (b)."

(b) Section 2 is further amended by adding the following subsection:

"(b) A retired member of a uniformed service, as defined in the Dual Compensation Act of 1963, appointed, or reinstated or reemployed after the effective date of the Dual Compensation Act of 1963 with a break in service of more than thirty days, shall be given preference only if (1) his retirement was based on disability resulting from an injury or disease received in line of duty as a direct result of armed conflict, or caused by an instrumentality of war and incurred in line of duty during a period of war (as that term is defined in 38 U.S.C. 101, 301); (2) his retired pay was based on less than six years of continuous full-time active service not including periods of active duty for training; or (3) his retirement was effected under chapter 67, title 10 of the United States Code subsequent to such appointment, reinstatement, or reemployment."

(c) Section 12 of the Veterans' Preference Act of 1944 (5 U.S.C. 861) is amended by inserting before the first word the symbol "(a)" and by inserting in the first proviso of the first paragraph after the word "That" the words, "except as provided in subsection (b)."

(d) Section 12 is further amended by adding subsection (b) as follows:

"(b) In computing length of total service, a retired member of a uniformed service appointed, or reinstated or reemployed with a break in service of more than thirty days, after the effective date of the Dual Compensation Act of 1963, shall be given credit for the length of time spent in active service in the uniformed services only if (1) his retirement was based on disability resulting from an injury or disease received in line of duty as a direct result of armed conflict, or caused by an instrumentality of war and incurred in line of duty during a period of war (as that term is defined in 38 U.S.C. 101, 301); (2) his retired pay was based on less than six years of continuous full-time active service not including periods of active duty for training; or (3) his retirement was effected under chapter 67, title 10 of the U.S. Code subsequent to such appointment, reinstatement, or reemployment."

Sec. 104. The portion of section 3(b) of the Civil Service Retirement Act, as amended (5 U.S.C. 2253(b)), appearing before the phrase, "for purposes of section 9(e) (1)" is amended to read as follows:

"(b) An employee or Member shall be allowed credit for periods of military service prior to the date of the separation upon which title to annuity is based; however, if the employee or Member is awarded retired pay on account of military service, his military service shall not be included except as hereinafter provided. If the retired pay is awarded on account of disability resulting from an injury or disease received in line of duty as a direct result of armed conflict, or caused by an instrumentality of war and incurred in line of duty during a period of war (as that term is defined in sections 101 and 301 of title 38, United States Code), his military service shall be included. If the retired pay is awarded under chapter 67, title 10, United States Code (1) his military service performed before the effective date of the Dual Compensation Act of 1963 shall be included; and (2) if he has a total of less than six years of continuous active duty (regardless of when performed but not including periods of active duty for training), his military service performed on and after the effective date of the Dual Compensation Act of 1963 shall be included. Notwithstanding the foregoing,"

Sec. 105. The last two sentences of section 203(a) of the Annual and Sick Leave Act of 1951 (5 U.S.C. 2062 (a)) are amended to read as follows: "In determining

years of service for the purposes of this subsection; there shall be included all service creditable under the provisions of section 3 of the Civil Service Retirement Act for the purposes of an annuity under such Act and the determination of the period of service rendered may be made upon the basis of an affidavit of the employee. Active military service of a retired member of a uniformed service is not creditable in determining years of service for the purpose of this subsection unless such military service is creditable under section 3(b) of the Civil Service Retirement Act toward annuity concurrently with receipt of retired pay. In the case of an officer or employee who is not paid on the basis of biweekly pay periods, the leave provided by this title shall accrue on the same basis as it would accrue if such officer or employee were paid on the basis of biweekly pay periods."

TITLE II LIMITATION ON DUAL COMPENSATION FOR MORE THAN ONE CIVILIAN OFFICE

Sec. 201. An officer or employee may not receive basic compensation from more than one civilian office for more than forty hours' work in any one calendar week (Sunday through Saturday), except as authorized under regulations of the United States Civil Service Commission, when the Commission determines that services cannot otherwise be readily obtained:

Sec. 202. Section 201 of this title does not apply to—

- (1) compensation on a when-actually-employed basis received from more than one consultant or expert position as long as such dual compensation is not received for the same hours of the same day;
- (2) compensation by fees paid on other than a time basis;
- (3) compensation received by teachers, school officers, and custodial employees of the Board of Education of the District of Columbia for services rendered in connection with the operation of night or vacation schools in the public schools of the District of Columbia;
- (4) compensation received by custodial employees of the Board of Education of the District of Columbia for the services rendered in school buildings to any Federal department or agency, or any department of the government of the District of Columbia other than the Board of Education, during its use of school buildings in accordance with the rules of the Board of Education governing the use of such buildings;
- (5) compensation received by teachers in the public schools of the District of Columbia for employment during the summer vacation period;
- (6) extra compensation paid by the Weather Bureau to employees of other Government agencies for taking and transmitting meteorological observations;
- (7) compensation paid by the Department of Commerce to its employees and the employees of other departments and independent offices of the Government who are employed, with the consent of the head of the respective department or office, in field work in connection with the work provided for in title 13 of the United States Code, as authorized prior to the enactment of this Act by section 22(b) of title 13, United States Code; and compensation paid to enlisted men and officers of the armed services who may be appointed and compensated for the enumeration of the personnel of the Armed Forces, as authorized prior to the enactment of this Act by section 24(a) of title 13, United States Code;
- (8) extra compensation paid by the Coast and Geodetic Survey to employees of other Federal agencies making oceanographic observations or tending seismographs;
- (9) compensation paid to employees of the Library of Congress for performing special functions for which funds have been entrusted to the board or the Librarian or that are in connection with the cooperative undertakings of the Library;
- (10) compensation received by persons serving in more than one position on the effective date of this Act under properly authorized appointments, so long as such appointments continue;
- (11) any teacher employed under the provisions of the Defense Department Overseas Teachers Pay and Personnel Practices Act (5 U.S.C. 2351-2354) who (1) is performing services as a teacher at the close of a school year, (2) agrees in writing to serve as a teacher for the next school year, and (3) is employed in another position in the recess period immediately preceding such next school year, or during such recess period, receives quarters, allowances, or additional compensation referred to in sections 7 and 8 of such Act, or both, as the case may be; and
- (12) compensation paid by the United States Coast Guard to employees occupying part-time positions of lamp-lighters.

TITLE III—EFFECTIVE DATE AMENDMENTS AND REPEALERS

Sec. 301. The provisions of this Act take effect on January 1, 1964.

Sec. 302. If any part of this Act shall be found to be unconstitutional, the rest of it shall be considered as in full force and effect.

Sec. 303. The following parts of laws are amended:

(a) Section 18 of the Act of December 20, 1944, as added by the Act of August 10, 1950, (2 D.C. Code 1226), relating to members of the District of Columbia Boxing Commission, is amended by changing the period to a comma and adding the following: "except as provided in the Dual Compensation Act of 1963 with respect to retired personnel of the uniformed services."

(b) Section 29 of the Act of August 10, 1956, as amended (5 U.S.C. 30r), is amended by inserting in subsection (c) immediately after the words "Any Reserve or member of the National Guard may accept any civilian position under the United States or the District of Columbia and," the following: "except as provided in the Dual Compensation Act of 1963 with respect to retired personnel," and by changing the period at the end of subsection (d) to a comma and adding the following: "except as provided in the Dual Compensation Act of 1963 with respect to retired personnel."

(c) Section 2 of the Act of June 20, 1874 (18 Stat. 109), as amended (5 U.S.C. 71), is amended to read as follows: "No officer or employee in any branch of the public service whose compensation and allowances are fixed by law or regulation shall receive any additional pay, allowances, or perquisites directly or indirectly in any form whatever for the performance of the duties of his position unless the same is authorized by law, and no such officer or employee shall receive any compensation allowances or perquisites for the discharge of the duties of any position other than one to which he has been appointed unless expressly authorized by law."

(d) Subsections (a) and (c) of section 2335, title 39, United States Code, are amended by striking out "sections 58, 62, 69, and 79 of title 5" and substituting in lieu thereof "section 201 of the Dual Compensation Act of 1963".

(e) Section 102 of title II, Canal Zone Code (76A Stat. 15), is amended by striking out the language which precedes "not apply to teachers in the public schools of the Canal Zone who are also employed in night schools or in vacation schools or programs," and inserting in lieu thereof "Section 201 of the Dual Compensation Act of 1963 does".

(f) Section 12(b) of the Peace Corps Act, approved September 22, 1961 (75 Stat. 619-620), is amended by striking out the phrase "section 212 of the Act of June 30, 1932, as amended (5 U.S.C. 59a)," and by changing the period at the end of the section to a comma and adding the following: "except as provided in the Dual Compensation Act of 1963."

(g) Section 44 of the Arms Control and Disarmament Act, approved September 26, 1961 (75 Stat. 636), is amended by striking out the phrase "section 212 of the Act of June 30, 1932, as amended (5 U.S.C. 59a)," and by changing the period at the end of the section to a comma and adding the following: "except as provided in the Dual Compensation Act of 1963."

(h) Section 626(b), second sentence, of the Act of September 4, 1961 (75 Stat. 451; 22 U.S.C. 2386(b)), relating to certain service under the Act for International Development of 1961 and the International Peace and Security Act of 1961, is amended by striking out the phrase "section 212 of Public Law 72-212, as amended (5 U.S.C. 59a)," and by changing the period at the end of the sentence to a comma and adding the following: "except as provided in the Dual Compensation Act of 1963."

Sec. 304. (a) The following laws and parts of laws are repealed:

(1) Section 1763 of the Revised Statutes (5 U.S.C. 58), relating to the receipt of compensation from more than one office.

(2) Section 1764 of the Revised Statutes (5 U.S.C. 60), relating to additional compensation for extra services.

(3) Section 1765 of the Revised Statutes (5 U.S.C. 70), relating to additional compensation for any person whose salary is fixed by law or regulation.

(4) Section 2074 of the Revised Statutes (25 U.S.C. 50), prohibiting the holding of two offices under title XXVIII of the Revised Statutes.

(5) The Act of July 27, 1882 (23 Stat. 476), authorizing additional compensation for Government employees engaged in cataloging Government publications by the Joint Committee on Printing.

(6) The following sentence in the Act of February 25, 1885 (23 Stat. 329): "And hereafter no consul or consul-general shall be entitled to or allowed any part of any salary appropriated for payment of a secretary or second secretary of legation or an interpreter."

(7) The Act of January 30, 1888 (25 Stat. 1), providing for the appointment of a Commissioner of Fish and Fisheries who shall not hold any other office.

(8) Joint Resolution Numbered 3 of February 5, 1889 (25 Stat. 1019), authorizing the President to appoint an officer of the United States Coast and Geodetic Survey as a delegate to the International Geodetic Association, who was to serve without extra salary or additional compensation.

(9) Section 2 of the Act of July 31, 1894 (28 Stat. 205), as amended by the Act of May 31, 1924 (43 Stat. 245), by section 6 of the Act of July 30, 1937 (50 Stat. 549), and by the Act of June 25, 1938 (52 Stat. 1194), relating to the holding of two offices (5 U.S.C. 62).

(10) That part of the Act of February 20, 1895 (28 Stat. 676), providing for the compensation of the members of a commission to recommend the location of the building authorized by the Act.

(11) Section 7 of the Act of June 2, 1896 (29 Stat. 235; 5 U.S.C. 62), relating to the employment of retired officers of the Army and Navy in connection with river and harbor improvements.

(12) That part of section 7 of the Act of June 28, 1902 (32 Stat. 483), providing for the appointment and compensation of officers of the Army and Navy to and under the Isthmian Canal Commission.

(13) The paragraph of the Act of March 4, 1909 (35 Stat. 921), relating to the pay of retired Army and Navy officers and enlisted men then in the employ of the Isthmian Canal Commission.

(14) The paragraph of the Act of August 5, 1909 (36 Stat. 130), authorizing the National Waterways Commission to pay not to exceed three officers or employees of the Government without regard to the Act of July 31, 1894, and other laws.

(15) Section 12 of the Act of August 20, 1912 (37 Stat. 319), to appoint members of a Federal Horticultural Board from among the employees of the Department of Agriculture.

(16) Section 6 of the Act of May 10, 1916 (39 Stat. 120; 5 U.S.C. 55), as amended by the Act of August 20, 1916 (39 Stat. 582; 5 U.S.C. 59), relating to double salaries.

(17) Section 9 of the Act of October 6, 1917 (40 Stat. 384; 21 D.C. Code 631), relating to the application of section 6 of the Act of May 10, 1916, to teachers in the public schools of the District of Columbia who also teach in night schools and vacation schools.

(18) Section 8 of the Act of March 21, 1918 (40 Stat. 455-456), authorizing the President to avail himself of the assistance of Government employees in the operation of transportation facilities taken over by the President.

(19) Sections 2 and 4 of the Act of April 5, 1918 (40 Stat. 597), authorizing the appointment of Federal employees to membership on the Board of Directors of the War Finance Corporation and providing for their compensation.

(20) The last paragraph under the heading "District of Columbia" and under the subheading "Public Schools" contained in the first section of the Act of July 8, 1918 (40 Stat. 823; 21 D.C. Code 631), relating to the application of section 6 of the Act of May 10, 1916, to employees of the community center department of the public schools of the District of Columbia.

(21) The ninth paragraph under the heading "District of Columbia" and under the subheading "Public Schools" contained in the first section of the Third Deficiency Act, fiscal year 1920 (41 Stat. 1017; 21 D.C. Code 631), relating to the application of section 6 of the Act of May 10, 1916, to employees of the school garden department of the public schools of the District of Columbia.

(22) The proviso contained in the paragraph under the heading "Bureau of the Budget" in the Act of February 17, 1922 (42 Stat. 373; 5 U.S.C. 64), relating to the application of section 2 of the Act of July 31, 1894, to retired officers of the Army, Navy, Marine Corps, or Coast Guard appointed to certain offices in the Bureau of the Budget.

(23) That part of section 6 of the Act of March 2, 1925 (43 Stat. 1108), as amended by the Act of January 27, 1926 (44 Stat. 2), relating to the application of section 6 of the Act of May 10, 1916, to employees of the Library of Congress (2 U.S.C. 182; 5 U.S.C. 60), which reads: "nor shall any additional compensation so paid to such employees be construed as a double salary under the provisions of section 6 of the Act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1917, as amended (39 Stat. 582)."

(24) Subparagraph (g) of the third paragraph in the Act of August 5, 1953 (67 Stat. 266), as amended by the Act of August 28, 1957 (71 Stat. 457), relating to the Corregidor-Bataan Memorial Commission.

(25) The fifth sentence of section 3 of the Reconstruction Finance Corporation Act, as in effect on June 30, 1947 (47 Stat. 6), and as continued by section 3(a) of such Act, as amended (61 Stat. 203; 62 Stat. 262; 15 U.S.C. 603 (a)), relating to employees of the Reconstruction Finance Corporation, which reads: "Nothing contained in this or in any other Act shall be construed to prevent the appointment and compensation as an employee of the Corporation of any officer or employee of the United States in any board, commission, independent establishment, or executive department thereof."

(26) Section 212 of the Act of June 30, 1932 (47 Stat. 406), as amended by section 3 of the Act of July 15, 1940 (54 Stat. 761), by the Act of February 20, 1954 (68 Stat. 18), by section 2 of the Act of August 4, 1955 (69 Stat. 498), by section 2201 (11) of the Act of June 17, 1957 (71 Stat. 158), and by section 13(d) of the Act of September 2, 1958 (72 Stat. 1264), relating to the limitation on the amount of retired pay received for commissioned officer service when combined with Government civilian salary (5 U.S.C. 59a).

(27) The Act of September 12, 1940 (54 Stat. 885), authorizing Jesse H. Jones, Federal Loan Administrator, to exercise the duties of the Office of Secretary of Commerce.

(28) The Act of July 1, 1942 (56 Stat. 467; 31 D.C. Code 631(a)), relating to the application of section 6 of the Act of May 10, 1916, to custodial employees of the Board of Education of the District of Columbia.

(29) The Act of March 20, 1945 (59 Stat. 38 39), authorizing the Doorkeeper of the House of Representatives during the Seventy-ninth Congress to employ Government employees for folding speeches and pamphlets.

(30) The Act of August 10, 1946 (60 Stat. 978), as amended by the Act of October 20, 1954 (65 Stat. 662), relating to the appointment and employment of certain retired officers in the Veterans' Administration (5 U.S.C. 64a).

(31) Section 12 of the District of Columbia Teachers' Salary Act of 1955, approved August 5, 1955 (69 Stat. 520), relating to retired members of the armed services employed as teachers of military science and tactics.

(32) Section 626(c) of the Act of September 4, 1961 (75 Stat. 451; 22 U.S.C. 2286(c)), relating to retired officers employed under the Act for International Development of 1961 or the International Peace and Security Act of 1961.

(33) Subsection (d) of section 201, title II, Canal Zone Code (76A Stat. 21), relating to retired members of a regular component of the Armed Forces or the Public Health Service of the United States employed in the Canal Zone Government or the Panama Canal Company.

(34) The first proviso under the heading "DEPARTMENT OF THE ARMY" and under the subheading "MILITARY PERSONNEL" contained in title III of the Department of Defense Appropriation Act, 1958 (71 Stat. 212; Public Law 85-117), relating to retired military personnel on duty at the United States Soldiers' Home, which reads: "Provided, That section 212 of the Act of June 30, 1932 (5 U.S.C. 59a), shall not apply to retired military personnel on duty at the United States Soldiers' Home;" and provisions to the same effect contained in other appropriation Acts enacted prior to the date of the enactment of this Act relative to retired military personnel on duty at the United States Soldiers' Home (5 U.S.C. 59b).

(35) Section 23(b) of the Act of August 31, 1954 (68 Stat. 1014), as amended by section 2 of the Act of September 13, 1960 (74 Stat. 911), and section 24(e) of the Act of August 31, 1954 (68 Stat. 1015), as amended by section 3 of the Act of September 13, 1960 (74 Stat. 911), relating to the collection of census data (13 U.S.C. 23(b) and 24(e)).

(36) Section 10(b) of the Defense Department Overseas Teachers Pay and Personnel Practices Act (5 U.S.C. 2358(b)).

(37) Section 203(b)(11) of the National Aeronautics and Space Act of 1958, as amended (42 U.S.C. 2473(b)(11)), authorizing the employment of retired commissioned officers subject only to the limitations in pay set forth in section 59a of title 5, United States Code.

(38) That part of section 401(a) of the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2253(a)), which reads: "and, notwithstanding the provisions of any other law, except those imposing restrictions upon dual compensation, employ, in a civilian capacity, with the approval of the President, not to exceed twenty-five retired personnel of the armed services on a full- or part-time basis without loss or reduction of or prejudice to their retired status;"

(39) Section 5(f) of the Central Intelligence Agency Act of 1949, as amended (50 U.S.C. 403(f)), authorizing employment of not more than fifteen retired officers who must elect between civilian salary and retired pay.

(40) Section 3 of the Act of July 11, 1917 (61 Stat. 311), relating to the position of director of the band in the Metropolitan Police force of the District of Columbia;
 (41) That part of section 9 of the Act of June 4, 1918 (62 Stat. 312), relating to personnel of the Armory Board of the District of Columbia, which reads: "and without regard to any prohibition against double salaries contained in any other law";

(42) Section 3 of the Act of April 21, 1918 (62 Stat. 197), relating to the Re-mount Service in the Department of Agriculture;

(43) That part of the second sentence of section 103 of the Act of September 12, 1950 (61 Stat. 817), relating to the International Boundary and Water Commission, United States and Mexico, which reads: "and who shall be entitled to receive, as compensation for such temporary service, the difference between the rates of pay established therefor and their retired pay during the period or periods of such temporary employment";

(b) All other provisions of law inconsistent with or superseded by this Act are hereby repealed.

That this Act may be cited as the "Dual Compensation Act."

TITLE I—DEFINITIONS

SEC. 101. For the purposes of this Act and the amendments made by this Act—

(1) "uniformed services", "armed forces", "Secretary concerned", "officer", "warrant officer", "grade", "active duty", "active service", and "member" have the definitions given them by section 101 of title 37, United States Code;

(2) "a retired member of any of the uniformed services" means a member or former member of any of the uniformed services who is entitled, under any provision of law, to retired, retirement, or retainer pay on account of his service as such a member;

(3) "civilian office" means a civilian office or position (including a temporary, part-time, or intermittent position), appointive or elective, in the legislative, executive, or judicial branch of the Government of the United States (including each corporation owned or controlled by such Government and including non-appropriated fund instrumentalities under the jurisdiction of the armed forces) or in the municipal government of the District of Columbia.

TITLE II—EMPLOYMENT OF RETIRED MEMBERS OF UNIFORMED SERVICES

SEC. 201. (a) Except as provided by subsections (b), (c), and (e) of this section, a retired officer of any regular component of the uniformed services shall receive the full salary of any civilian office which he holds, but during a period for which he receives salary, his retired or retirement pay shall be reduced to an annual rate equal to the first \$2,000 of such pay plus one-half of the remainder, if any. In the operation of the formula for reduction of such pay under this subsection, such amount of \$2,000 shall be increased, from time to time, by appropriate percentage, in direct proportion to each increase in such pay effected pursuant to the provisions of section 1401a(b) of title 10, United States Code, to reflect changes in the Consumer Price Index.

(b) The reduction in retired or retirement pay required by subsection (a) of this section shall not apply to a retired officer of any regular component of the uniformed services whose retirement was based on disability (1) resulting from injury or disease received in line of duty as a direct result of armed conflict or (2) caused by an instrumentality of war and incurred in line of duty during a period of war (as defined in sections 101 and 301 of title 38, United States Code).

(c) The reduction in retired or retirement pay required by subsection (a) of this section shall not apply to a retired officer of any regular component of the uniformed services employed on a temporary (full-time or part-time) basis, any other part-time basis, or any intermittent basis, for the first thirty-day period for which he receives salary. The exemption from reduction in retired or retirement pay provided by this subsection shall not apply to a period longer than—

(1) the first thirty-day period for which he receives salary under any one appointment from the civilian office in which he is employed, if he is serving under not more than one appointment, and

(2) the first period for which he receives salary under more than one appointment, in any fiscal year, which consists in the aggregate of thirty days, from all civilian offices in which he is employed, if he is serving under more than one appointment in such fiscal year.

(d) For the purposes of subsections (a) and (c) of this section, "period for which he receives salary" means the full calendar period for which he receives salary when employed on a full-time basis but only the days for which he actually receives salary when employed on a part-time or intermittent basis.

(e) Except as otherwise provided in this subsection, the United States Civil Service Commission, subject to the supervision and control of the President, is authorized to prescribe and issue regulations under which exceptions may be made to the restrictions in subsection (a) of this section whenever it is determined by appropriate authority that such exceptions are warranted on the basis of special or emergency employment needs which otherwise cannot be readily met. The President of the Senate with respect to the United States Senate, the Speaker of the House of Representatives with respect to the United States House of Representatives, and the Architect of the Capitol with respect to the Office of the Architect of the Capitol each is authorized to provide for a means by which exceptions may be made to the restrictions in subsection (a) of this section whenever he determines that such exceptions are warranted on the basis of special or emergency employment needs which otherwise cannot be readily met. The Administrator of the National Aeronautics and Space Administration is authorized to except, at any time, any individual in a scientific, engineering, or administrative position appointed pursuant to clause (A) of section 203(b)(2) of the National Aeronautics and Space Act of 1958, as amended (42 U.S.C. 2473(b)(2)(A)), from the restrictions in subsection (a) of this section, whenever the Administrator determines that such exception is warranted on the basis of special or emergency employment needs which otherwise cannot be readily met; but not more than thirty such exceptions may exist at any one time under such authority.

(f) Notwithstanding subsection (a) of this section, a retired officer of any regular component of the uniformed services who was employed in a civilian office on the day immediately preceding the effective date of this subsection—

(1) if, on such immediately preceding day, he was exempt from limitations on compensation, may elect (A) to remain subject to and continue under such exemption or (B) to be subject to applicable limitations and exemptions of subsections (a), (b), (c), and (e) of this section; or

(2) if, on such immediately preceding day, he was subject to limitations on compensation, may elect (A) to remain subject to and continue under such limitations, or (B) to be subject to applicable limitations and exemptions of subsections (a), (b), (c), and (e) of this section.

Such election is irrevocable and shall be filed with the department concerned not later than the ninetieth day after the effective date of this subsection. Any such retired officer who does not file such election within the prescribed period shall be held and considered to have elected to remain in the status which he occupies, on such immediately preceding day, with respect to limitations on compensation, or exemptions therefrom, as the case may be. In the event of any appointment, reinstatement, or reemployment of such retired officer which is made after such effective date and follows a break in service of more than thirty days, such retired officer shall be subject to applicable limitations and exemptions of subsections (a), (b), (c), and (e) of this section.

(g) A member of any of the uniformed services, serving in the Army or Air Force of the United States without component, under an appointment made under section 515 of the Officer Personnel Act of 1947, in a temporary grade higher than, or the same as, the reserve commission he then held, who, prior to the effective date prescribed by section 403(a) of this Act, was retired for physical disability in such temporary grade, shall not be considered as subject to the restriction on the concurrent receipt of civilian compensation and retired pay contained in section 212 of the Act of June 30, 1932, as amended (5 U.S.C. 59a), for any period following such retirement.

(h) A nonregular member of any of the armed forces, who served on active duty in a temporary warrant officer grade and who was retired in that status prior to the effective date prescribed by section 403(a) of this Act, shall not be considered as subject to the restriction in section 2 of the Act of July 31, 1894, as amended (5 U.S.C. 62), for any period following such retirement.

SEC. 202. Section 12 of the Veterans' Preference Act of 1944, as amended (5 U.S.C. 861), is amended—

(1) by inserting "(a)" immediately following "SEC. 12";

(2) by inserting "subject to subsection (c) of this section," immediately after the word "That" in the first proviso thereof;

(3) by inserting "(subject to subsection (b) of this section)" immediately after "military preference"; and

(4) by adding at the end thereof the following new subsections:

"(b) Notwithstanding any other provision of this Act, an employee who is a retired member of any of the uniformed services included under section 2 of this Act shall be

considered a preference employee for the purposes of subsection (a) of this section only if—

"(1) his retirement was based on disability (A) resulting from injury or disease received in line of duty as a direct result of armed conflict or (B) caused by an instrumentality of war and incurred in the line of duty during a period of war (as defined in sections 101 and 301 of title 38, United States Code); or

"(2) his service does not include twenty or more years of full-time active service (regardless of when performed but not including periods of active duty for training); or

"(3) immediately prior to the effective date of this subsection, he was employed in a civilian office to which this Act applies and, on and after such date, he continues to be employed in any such office without a break in service of more than thirty days.

"(c) In computing length of total service, an employee who is a retired member of any of the uniformed services shall be given credit for—

"(1) the length of time in active service in the armed forces during any war, or in any campaign or expedition (for which a campaign badge has been authorized); or

"(2) if he is included under clause (1), (2), or (3) of subsection (b) of this section, the total length of time in active service in the armed forces."

SEC. 203. The last two sentences of section 203(a) of the Annual and Sick Leave Act of 1951 (5 U.S.C. 2062 (a)) are amended to read as follows: "Except as otherwise provided in this subsection, in determining years of service for the purposes of this subsection, there shall be included all service creditable under the provisions of section 3 of the Civil Service Retirement Act for the purposes of an annuity under such Act and the determination of the period of service rendered may be made upon the basis of an affidavit of the employee. Active military service of a retired member of any of the uniformed services is not creditable in determining years of service for the purpose of this subsection unless—

"(1) his retirement was based on disability (A) resulting from injury or disease received in line of duty as a direct result of armed conflict or (B) caused by an instrumentality of war and incurred in the line of duty during a period of war (as defined in sections 101 and 301 of title 38, United States Code); or

"(2) immediately prior to the effective date of this sentence, he was employed in a civilian office to which this Act applies and, on and after such date, he continued to be employed in any such office without a break in service of more than thirty days; or

"(3) such service was performed in the armed forces during any war, or in any campaign or expedition (for which a campaign badge has been authorized). In the case of an officer or employee who is not paid on the basis of biweekly pay periods, the leave provided by this title shall accrue on the same basis as it would accrue if such officer or employee were paid on the basis of biweekly pay periods."

SEC. 204. (a) A retired member of any of the armed forces may be appointed to serve in a civilian office in or under the Department of Defense during the period of one hundred and eighty days immediately following his retirement only if—

(1) the proposed appointment is authorized by the Secretary concerned (or his designee for the purpose), and, if such civilian office is in the competitive civil service, after approval by the United States Civil Service Commission; or

(2) the minimum rates of basic compensation for such civilian office have been increased under authority of section 504 of the Federal Salary Reform Act of 1962 (5 U.S.C. 1173); or

(3) a state of national emergency exists.

(b) A request by appropriate authority for the authorization, or the authorization and approval, as the case may be, required by subsection (a)(1) of this section shall be accompanied by a statement which shows the actions taken to assure that—

(1) full consideration, in accordance with placement and promotion procedures of the department concerned, was given to eligible career employees; and

(2) when selection is by other than certification from an established civil service register, the vacancy has been publicized to give all interested candidates an opportunity to apply; and

(3) qualification requirements for the position have not been written in a manner designed to give advantage to such retired member; and

(4) the position has not been held open pending the retirement of such retired member.

SEC. 205. Notwithstanding any other provision of law, a retired member of any of the uniformed services shall not be appointed to any civilian office in the competitive civil service unless (1) the United States Civil Service Commission shall

have given prior public notice of the fact that a vacancy exists in such office and of the fact that an assembled examination (including written tests, oral interviews, and security investigation), where practicable, or a combination of an assembled or nonassembled examination, where practicable, open to all persons is to be given at a specific time and place, but not before the thirtieth day after the date such notice is first given, and (2) such office is filled only from among those qualified persons who successfully complete such examination. This section shall not affect the authority of the Administrator of the National Aeronautics and Space Administration contained in section 201(e) of this title.

SEC. 206. The President shall transmit to the Congress on or before January 1, 1966, a comprehensive report of the operations under this title of the departments and agencies in the executive branch.

TITLE III—LIMITATION ON DUAL COMPENSATION FROM MORE THAN ONE CIVILIAN OFFICE

SEC. 301. (a) Except as provided by subsections (b), (c), (d), and (e) of this section, civilian personnel shall not be entitled to receive basic compensation from more than one civilian office for more than an aggregate of forty hours of work in any one calendar week (Sunday through Saturday).

(b) Except as otherwise provided by subsection (c) of this section, the United States Civil Service Commission, subject to the supervision and control of the President, is authorized to prescribe and issue regulations under which exceptions may be made to the restrictions in subsection (a) of this section whenever it is determined by appropriate authority that such exceptions are warranted on the ground that personal services otherwise cannot be readily obtained.

(c) The President of the Senate with respect to the United States Senate, the Speaker of the House of Representatives with respect to the United States House of Representatives, and the Architect of the Capitol with respect to the Office of the Architect of the Capitol each is authorized to provide for a means by which exceptions may be made to the restrictions in subsection (a) of this section whenever he determines that such exceptions are warranted on the ground that personal services otherwise cannot be readily obtained.

(d) Subsection (a) of this section does not apply to—

(1) compensation on a when-actually-employed basis received from more than one consultant or expert position if such compensation is not received for the same hours of the same day;

(2) compensation consisting of fees paid on other than a time basis;

(3) compensation received by teachers of the public schools of the District of Columbia for employment in a civilian office during the summer vacation period;

(4) compensation paid by the Tennessee Valley Authority to employees performing part-time or intermittent work in addition to their normal duties when the Authority deems it to be in the interest of efficiency and economy;

(5) compensation paid by the United States Coast Guard to employees occupying part-time positions of lamplighters; and

(6) compensation within the purview of any of the following provisions of law:

(A) section 9 of the Act of October 6, 1917 (40 Stat. 384; D.C. Code, sec. 31-631), relating to teachers in the public schools of the District of Columbia who also are employed in night schools and vacation schools;

(B) section 6 of the Act of March 3, 1925 (43 Stat. 1108), as amended by the Act of January 27, 1926 (44 Stat. 2), relating to employees of the Library of Congress (2 U.S.C. 162; 5 U.S.C. 60);

(C) the Act of July 1, 1942 (56 Stat. 467; D.C. Code, sec. 31-631a), relating to custodial employees of the Board of Education of the District of Columbia;

(D) section 2 of the Act of July 22, 1947, as amended (61 Stat. 400, 74 Stat. 11; 33 U.S.C. 873), relating to extra compensation paid in connection with instrument observation or recording, the observation of tides or currents, or the tending of seismographs or magnetographs;

(E) section 3 of the Act of June 2, 1948, as amended (62 Stat. 286, 74 Stat. 11; 15 U.S.C. 327), relating to extra compensation paid in connection with the taking and transmitting of meteorological observations;

(F) section 10(b) of the Defense Department Overseas Teachers Pay and Personnel Practices Act (73 Stat. 217; 5 U.S.C. 2358(b)), relating to the compensation of certain teachers employed in another position in recess periods;

(G) section 102 of chapter 7 of title 2, Canal Zone Code (76A Stat. 15), relating to teachers in the public schools of the Canal Zone who also are employed in night schools or in vacation schools or programs;

(H) section 23(b) of title 13, United States Code, relating to the payment of compensation to employees for the field work of the Bureau of the Census, Department of Commerce; or

(I) subsection (a) or (c) of section 3335 of title 39, United States Code, relating to dual employment and extra duties in the postal field service.

(e) With respect to the compensation of persons serving on the effective date of this section in more than one position under properly authorized appointments, subsection (a) of this section shall not apply for the duration of the appointment or appointments concerned.

TITLE IV - MISCELLANEOUS PROVISIONS

SEC. 401. (a) Section 18 of the Act of December 20, 1944, as added by section 2 of the Act of August 19, 1950 (64 Stat. 466; D.C. Code, sec. 2-1226), is amended by inserting immediately before the period at the end thereof a comma and the following: "subject to section 201 of the Dual Compensation Act".

(b) The second paragraph of section 2 of the Act of August 11, 1950 (64 Stat. 458; D.C. Code, sec. 6-1202), is amended to read as follows:

"Notwithstanding the limitation of any law, there may be employed in such Office of Civil Defense any person who has been retired from any of the uniformed services of the United States or any office or position in the Federal or District governments, and except as hereinafter provided, while so employed in such Office of Civil Defense any such retired person may receive the compensation authorized for such employment or the retirement compensation or annuity, whichever he may elect, and upon the termination of such employment, he shall be restored to the same status as a retired officer or employee with the same retirement compensation or annuity to which he was entitled before having been employed in such Office of Civil Defense. While any person who has been retired from any of the uniformed services of the United States is so employed in such Office of Civil Defense, he may receive the compensation authorized for such employment and his retired or retirement pay, subject to section 201 of the Dual Compensation Act."

(c) Section 13(b) of the Peace Corps Act (75 Stat. 819; 22 U.S.C. 2512(b)) is amended—

(1) by striking out "section 212 of the Act of June 30, 1932, as amended (5 U.S.C. 59a)"; and

(2) by inserting immediately before the period at the end thereof a comma and the following: "subject to section 201 of the Dual Compensation Act".

(d) Section 44 of the Arms Control and Disarmament Act (75 Stat. 636; 22 U.S.C. 2584) is amended—

(1) by striking out "section 212 of the Act of June 30, 1932, as amended (5 U.S.C. 59a)"; and

(2) by inserting immediately before the period at the end thereof a comma and the following: "subject to section 201 of the Dual Compensation Act".

(e) Section 626(b) of part III of the Act entitled "An Act to promote the foreign policy, security, and general welfare of the United States by assisting peoples of the world in their efforts toward economic development and internal and external security, and for other purposes", approved September 4, 1961 (75 Stat. 451; 22 U.S.C. 2386(b)), is amended—

(1) by striking out "section 212 of Public Law 72-212, as amended (5 U.S.C. 59a)"; and

(2) by inserting immediately before the period at the end thereof a comma and the following: "subject to section 201 of the Dual Compensation Act".

(f) Section 28 of the Atomic Energy Act of 1954 (68 Stat. 926; 42 U.S.C. 2038) is amended by striking out "Any such officer serving as Chairman of the Military Liaison Committee shall receive, in addition to his pay and allowances, including special and incentive pays, or in addition to his retired pay, an amount equal to the difference between such pay and allowances, including special and incentive pays, or between his retired pay, and the compensation prescribed for the Chairman of the Military Liaison Committee." and inserting in lieu thereof the following: "Any such active officer serving as Chairman of the Military Liaison Committee shall receive, in addition to his pay and allowances, including special and incentive pays, an amount equal to the difference between such pay and allowances, including special and incentive pays, and the compensation fixed for such Chairman. Any such retired officer serving as Chairman of the Military Liaison Committee shall receive the compensation fixed for such Chairman and his retired pay, subject to section 201 of the Dual Compensation Act."

(g) Section 204(d) of the National Aeronautics and Space Act of 1958 (72 Stat. 432; 42 U.S.C. 2474(d)) is amended by striking out "The compensation received by any such officer for his service as Chairman of the Liaison Committee shall be equal to the amount (if any) by which the compensation fixed by subsection (a)(1) for such Chairman exceeds his pay and allowances (including special and incentive pays) as an active officer, or his retired pay," and inserting in lieu thereof "Any such active officer serving as Chairman of the Liaison Committee shall receive, in addition to his pay and allowances, including special and incentive pays, an amount equal to the difference between such pay and allowances, including special and incentive pays, and the compensation fixed by subsection (a)(1) for such Chairman. Any such retired officer serving as Chairman of the Liaison Committee shall receive the compensation fixed by subsection (a)(1) for such Chairman and his retired pay, subject to section 201 of the Dual Compensation Act."

(h) Section 3(b)(1) of the Act of August 28, 1958 (72 Stat. 1091; Public Law 85-850), is amended to read as follows:

(1) One member, who shall serve as Chairman and who shall be a resident from the area comprising the Savannah, Altamaha, Saint Marys, Apalachicola-Chattahoochee, and Perdido-Escambia River Basins (and intervening areas) embraced within the States referred to in the first section of this Act and who shall not, during the period of his service on the Commission, hold any other position as an officer or employee of the United States, except that a retired military officer or a retired Federal civilian officer or employee may be appointed under this Act without prejudice to his retired status. A retired Federal civilian officer or employee appointed under this Act shall receive compensation as authorized herein in addition to his annuity, but the sum of his annuity and such compensation as may be payable hereunder shall not exceed \$12,000 in any one calendar year. A retired military officer appointed under this Act shall receive compensation as authorized herein and his retired pay, subject to section 201 of the Dual Compensation Act."

(i) Section 9 of the Act of October 6, 1917 (40 Stat. 384; D.C. Code, sec. 31-631), is amended by striking out "That section six of the legislative, executive, and judicial appropriation Act, approved May tenth, nineteen hundred and sixteen, as amended by the naval appropriation Act, approved August twenty-ninth, nineteen hundred and sixteen," and inserting in lieu thereof "Section 301 of the Dual Compensation Act".

(j) Section 6 of the Act of March 3, 1925, as amended by the Act of January 27, 1926 (43 Stat. 1108, 44 Stat. 2; 2 U.S.C. 162, 5 U.S.C. 60), is amended by striking out "nor shall any additional compensation so paid to such employees be construed as a double salary under the provisions of section 6 of the Act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1917, as amended (Thirty-ninth Statutes at Large, page 582)," and inserting in lieu thereof "and section 301 of the Dual Compensation Act shall not apply to any additional compensation so paid to such employees."

(k) The Act of July 1, 1942 (56 Stat. 467; D.C. Code, sec. 31-631a), is amended by striking out "That section 6 of the Act entitled 'An Act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1917,' approved May 10, 1916 (39th Stat. 120), and Acts amendatory thereto," and inserting in lieu thereof "That section 301 of the Dual Compensation Act".

(l) Section 2 of the Act of July 22, 1947, as amended (61 Stat. 400, 74 Stat. 11; 33 U.S.C. 873), is amended by inserting immediately before the period at the end thereof the following: "and without regard to section 301 of the Dual Compensation Act".

(m) Section 3 of the Act of June 2, 1948, as amended (62 Stat. 286, 74 Stat. 11; 15 U.S.C. 327), is amended by inserting immediately before the period at the end thereof the following: "without regard to section 301 of the Dual Compensation Act".

(n) Section 10(b) of the Defense Department Overseas Teachers Pay and Personnel Practices Act (73 Stat. 217; 5 U.S.C. 2358(b)) is amended by striking out "section 2 of the Act of July 31, 1894 (5 U.S.C. 62), relative to the holding of more than one office, section 6 of the Act of May 10, 1916 (5 U.S.C. 58 and 59), relative to double salaries, and any other law relating to the receipt of more than one salary or the holding of more than one office" and inserting in lieu thereof "section 301 of the Dual Compensation Act".

(o) Section 102 of chapter 7 of title 2, Canal Zone Code (76A Stat. 15), is amended by striking out "Section 2 of the Legislative, Executive, and Judicial Appropriation Act, approved July 31, 1894, as amended (28 Stat. 205; 5 U.S.C., sec. 62), and section 6 of the Legislative, Executive, and Judicial Appropriation Act, approved May 10,

1916, as amended (39 Stat. 120; 5 U.S.C., sec. 58), do" and inserting in lieu thereof "Section 301 of the Dual Compensation Act does".

(p) Section 23(b) of title 13, United States Code, is amended by inserting immediately before the period at the end thereof the following: "without regard to section 301 of the Dual Compensation Act".

(q) Subsections (a) and (c) of section 3335 of title 39, United States Code, each are amended by striking out "sections 58, 62, 69, and 70 of title 5" and inserting in lieu thereof "sections 69 and 70 of title 5 and section 301 of the Dual Compensation Act".

SEC. 402. (a) The following laws and parts of laws are hereby repealed:

(1) Section 1763 of the Revised Statutes (5 U.S.C. 58), relating to the receipt of compensation from more than one office.

(2) Section 2074 of the Revised Statutes (25 U.S.C. 50), prohibiting the holding of more than one office at the same time under title XXVIII of the Revised Statutes.

(3) Section 4395 of the Revised Statutes as amended by the Act of January 20, 1888 (25 Stat. 1), providing for the appointment of a Commissioner of Fish and Fisheries who shall not hold any other office.

(4) The Act of July 2, 1882 (22 Stat. 176), authorizing additional pay or compensation for Government employees engaged in cataloging Government publications at the direction of the Joint Committee on Printing.

(5) The sentence in the Act of February 26, 1885 (23 Stat. 329), which reads as follows: "And hereafter no consul or consul-general shall be entitled to or allowed any part of any salary appropriated for payment of a secretary or second secretary of legation or an interpreter."

(6) Joint Resolution Numbered 3 of February 5, 1889 (25 Stat. 1019), authorizing the President to appoint an officer of the United States Coast and Geodetic Survey as a delegate to the International Geodetic Association to serve without extra salary or additional compensation.

(7) Section 2 of the Act of July 31, 1894 (28 Stat. 205), as amended by the Act of May 31, 1924 (43 Stat. 245), by section 6 of the Act of July 30, 1937 (50 Stat. 549), and by the Act of June 25, 1938 (52 Stat. 1194), relating to the holding of two offices (5 U.S.C. 62).

(8) The paragraph in the Act of February 20, 1895 (28 Stat. 676), providing for the compensation of members of a commission established to recommend the location of a certain building, which reads as follows:

"The compensation of said commissioners shall be fixed by the Secretary of the Treasury, but the same shall not exceed six dollars per day and actual traveling expenses: Provided, however, That the member of said commission appointed from the Treasury Department shall be paid only his actual traveling expenses."

(9) Section 7 of the Act of June 3, 1896 (29 Stat. 235; 5 U.S.C. 65), relating to the employment of retired officers of the Army and Navy in connection with river and harbor improvements.

(10) Section 7 of the Act of June 28, 1902 (32 Stat. 483), relating to the appointment and compensation of certain officers employed under such Act.

(11) The paragraph of the Act of March 4, 1909 (35 Stat. 931), relating to the pay of retired Army and Navy officers and enlisted men then in the employ of the Isthmian Canal Commission, which reads as follows:

"Authority is hereby granted for the payment of salaries and wages accrued or hereafter earned of retired army and navy officers and enlisted men now in the employment of the Isthmian Canal Commission, in addition to their retired pay, where their compensation under such employment does not exceed two thousand five hundred dollars per annum."

(12) The second paragraph under the center heading "THE ISTHMIAN CANAL" with the side heading "National Waterways Commission:" in the Act of August 5, 1909 (36 Stat. 130), authorizing the National Waterways Commission to pay not to exceed three officers or employees of the Government without regard to the Act of July 31, 1894, and other laws.

(13) Section 13 of the Act of August 20, 1912 (37 Stat. 319; 7 U.S.C. 165), relating to the appointment of members of a Federal Horticultural Board from among employees of the Department of Agriculture.

(14) Section 6 of the Act of May 10, 1916 (39 Stat. 130; 5 U.S.C. 58), as amended by the Act of August 29, 1916 (39 Stat. 582; 5 U.S.C. 59), relating to double salaries.

(15) Section 8 of the Act of March 21, 1918 (40 Stat. 455-456), authorizing the President to avail himself of the assistance of Government employees in the operation of transportation facilities taken over by the President.

(16) Sections 3 and 4 of the War Finance Corporation Act (40 Stat. 507; 15 U.S.C. 393, 394), authorizing the appointment of Government employees to membership on the Board of Directors of the War Finance Corporation and providing for their compensation.

(17) The last paragraph under the heading "DISTRICT OF COLUMBIA" and under the subheading "PUBLIC SCHOOLS" contained in the first section of the Act of July 8, 1918 (40 Stat. 823; D.C. Code, sec. 31-631), relating to the application of section 6 of the Act of May 10, 1916, to employees of the community center department of the public schools of the District of Columbia.

(18) The ninth paragraph under the heading "DISTRICT OF COLUMBIA" and under the subheading "PUBLIC SCHOOLS" contained in the first section of the Third Deficiency Act, fiscal year 1920 (41 Stat. 1017; D.C. Code, sec. 31-631), relating to the application of section 6 of the Act of May 10, 1916, to employees of the school garden department of the public schools of the District of Columbia.

(19) That part of the proviso contained in the paragraph under the heading "BUREAU OF THE BUDGET" in the Act of February 17, 1922 (42 Stat. 373; 5 U.S.C. 64), relating to the application of section 2 of the Act of July 31, 1894, to retired officers of the Army, Navy, Marine Corps, or Coast Guard appointed to certain offices in the Bureau of the Budget, which reads as follows: "Provided, That section 2 of the Act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1896, and for other purposes, approved July 31, 1894, shall not be construed as having application to retired officers of the Army, Navy, Marine Corps, or Coast Guard who may be appointed to the offices created by section 207 of the Budget and Accounting Act, 1921, approved June 10, 1921, within the meaning of precluding payment to such officers of the difference in pay prescribed for such offices and their retired pay;"

(20) Section 212 of the Act of June 30, 1932 (47 Stat. 406), as amended by section 3 of the Act of July 16, 1940 (54 Stat. 761), by the Act of February 20, 1954 (68 Stat. 18), by section 2 of the Act of August 4, 1955 (69 Stat. 498), by section 2201(11) of the Act of June 17, 1957 (71 Stat. 158), and by section 13(d) of the Act of September 2, 1958 (72 Stat. 1264), relating to the limitation on the amount of retired pay received for commissioned officer service when combined with Government civilian salary (5 U.S.C. 59a).

(21) The Act of September 13, 1940 (54 Stat. 885), authorizing Jesse H. Jones, Federal Loan Administrator, to exercise the duties of the Office of Secretary of Commerce.

(22) The Act of March 29, 1945 (59 Stat. 38), authorizing the Doorkeeper of the House of Representatives during the Seventy-ninth Congress to employ Government employees for folding speeches and pamphlets.

(23) The Act of August 10, 1946 (60 Stat. 978), as amended by the Act of October 29, 1951 (65 Stat. 662), providing authority for the employment of certain retired officers in the Veterans' Administration (formerly contained in 5 U.S.C. 84a), which authority has expired.

(24) The fifth sentence of section 3 of the Reconstruction Finance Corporation Act, as in effect on June 30, 1947 (47 Stat. 6), and as continued by section 3(a) of such Act, as amended (61 Stat. 203, 62 Stat. 262; 15 U.S.C. 603 (a)), relating to employees of the Reconstruction Finance Corporation, which reads: "Nothing contained in this or in any other Act shall be construed to prevent the appointment and compensation as an employee of the corporation of any officer or employee of the United States in any board, commission, independent establishment, or executive department thereof."

(25) Section 2 of the Act of July 11, 1947 (61 Stat. 311; D.C. Code, sec. 4-183), relating to the position of director of the band in the Metropolitan Police force of the District of Columbia.

(26) Section 3 of the Act of April 21, 1948, as amended (7 U.S.C. 438), relating to the Remount Service in the Department of Agriculture.

(27) That part of section 9 of the Act of June 4, 1948 (62 Stat. 342; D.C. Code, sec. 2-1709), relating to personnel of the Armory Board of the District of Columbia, which reads: "and without regard to any prohibition against double salaries contained in any other law".

(28) Section 5(f) of the Central Intelligence Agency Act of 1949, as amended (65 Stat. 89, 72 Stat. 337; 50 U.S.C. 403f(f)), authorizing employment of not more than fifteen retired officers who must elect between civilian salary and retired pay.

(29) That part of the second sentence of section 103 of the American-Mexican Treaty Act of 1960 (64 Stat. 847), relating to the International Boundary and Water Commission, United States and Mexico, which reads: "and who shall be entitled to receive, as compensation for such temporary service, the difference between the rates of pay established therefor and their retired pay during the period or periods of such temporary employment".

(30) That part of section 401(a) of the Federal Civil Defense Act of 1950, as amended (64 Stat. 1254; 50 U.S.C. App. 2253(a)), which reads: "and, notwith-

standing the provisions of any other law, except those imposing restrictions upon dual compensation, employ, in a civilian capacity, with the approval of the President, not to exceed twenty-five retired personnel of the armed services on a full- or part-time basis without loss or reduction of or prejudice to their retired status;".

(31) Subparagraph (g) of the third paragraph of the Act of August 5, 1953 (67 Stat. 386), as amended by the Act of August 9, 1955 (69 Stat. 590), and by the Act of August 28, 1957 (71 Stat. 457), relating to the Corregidor-Bataan Memorial Commission (36 U.S.C. 428(g)).

(32) Section 12 of the District of Columbia Teachers' Salary Act of 1955 (69 Stat. 529; D.C. Code, sec. 31-15.1), authorizing employment of retired members of the armed services of the United States as teachers of military science and tactics in public high schools of the District of Columbia.

(33) Section 8 of the Act of September 7, 1957 (71 Stat. 628; 36 U.S.C. 748), relating to appointment and pay of certain retired officers by the Civil War Centennial Commission.

(34) Section 203(b)(11) of the National Aeronautics and Space Act of 1958 (72 Stat. 431; 42 U.S.C. 2473(b)(11)), authorizing the employment of retired commissioned officers subject only to the limitations in pay set forth in section 212 of the Act of June 30, 1932, as amended (5 U.S.C. 59a).

(35) Section 626(c) of the Act of September 4, 1961 (75 Stat. 451; 22 U.S.C. 2386(c)), authorizing employment of retired officers under the Act for International Development of 1961 or the International Peace and Security Act of 1961.

(36) Section 201(d) of chapter 7 of title 2, Canal Zone Code (76A Stat. 21), relating to retired members of a regular component of the Armed Forces or the Public Health Service of the United States employed in the Canal Zone Government or the Panama Canal Company.

(37) The matter contained in section 507 of the Department of Defense Appropriation Act, 1964 (77 Stat. 264; Public Law 88-149), relating to retired military personnel on duty at the United States Soldiers' Home, which reads: "Provided, That section 212 of the Act of June 30, 1932 (5 U.S.C. 59a), shall not apply to retired military personnel on duty at the United States Soldiers' Home", and provisions to the same effect contained in other appropriation Acts enacted prior to the effective date of this section relative to retired military personnel on duty at the United States Soldiers' Home (5 U.S.C. 59b).

(38) The next to the last sentence of section 1103(b) of title 38, United States Code, relating to the application of certain provisions of law to the Chief Medical Director of the Department of Medicine and Surgery of the Veterans' Administration, which reads: "Section 82 of title 5 of the United States Code shall not apply to any individual appointed Chief Medical Director before January 1, 1964; however, section 59a of title 5 shall apply, in accordance with its terms, to any such individual."

(b) All other provisions of law, general or specific, inconsistent with this Act and the amendments made by this Act, are hereby repealed.

SEC. 403. (a) Except as provided in subsection (b) of this section, this Act shall become effective on the first day of the first month which begins later than the ninetieth day following the date of enactment of this Act.

(b) This section and sections 201(g) and 201(h) shall become effective on the date of enactment of this Act.

SEC. 404. If any provision of this Act shall be held invalid, the remainder of this Act shall not be affected thereby.

Senator YARBOROUGH. I would suggest to the witnesses that their remarks be directed mainly to H.R. 7381, as pending in the House.

We have a rather lengthy list of witnesses today. As you gentlemen know, we are operating under considerable difficulties. It is very difficult to get more than one Senator in a committee at a time. We appreciate the fact that Senator Boggs is here because I am going to be forced to leave in 15 minutes to go to another committee. Then I will come back, but we want to hear each witness. Due to the fact there are a number of witnesses and we desire to hear everyone, we would request that the witnesses condense and consolidate their statements as much as possible.

We want the full statements in the record so the committee and staff can study them.

Gentlemen, the first witness this morning is the Honorable John W. Macy, Chairman of the U.S. Civil Service Commission.

I believe, Chairman Macy, that you have some staff members with you.

Mr. MACY. Yes, Mr. Chairman, I am associated in my testimony this morning by my colleague, Commissioner Robert Hampton, and Mr. Harold Leich, and Mr. Frank Witham, of the Bureau of Programs and Standards.

STATEMENT OF HON. JOHN W. MACY, JR., CHAIRMAN, U.S. CIVIL SERVICE COMMISSION; ACCOMPANIED BY HON. ROBERT E. HAMPTON, COMMISSIONER; HAROLD H. LEICH, CHIEF, PROGRAM PLANNING DIVISION, BUREAU OF PROGRAMS AND STANDARDS; AND FRANK M. WITHAM, PROGRAM PLANNER

Mr. MACY. Mr. Chairman, in response to your request to consolidate, summarize to the maximum extent possible, I will not go through the entire statement that I have prepared but rather go through and highlight it and then make myself available to you and to Senator Boggs for whatever questions you may wish to ask.

This legislation is comprehensive and complex and does call for a good deal of explanation in order to provide the information needed for legislative action.

It is a pleasure to appear before you again this morning. This time I am testifying on the Civil Service Commission's views with respect to S. 1912, introduced by Senator Johnston on July 18 of this year, and on H.R. 7381, which was favorably reported by the House Post Office and Civil Service Committee on November 7, 1963, and is now pending further action in the House of Representatives.

As originally introduced, H.R. 7381 incorporated the administration's proposals for revising the so-called dual employment-dual compensation laws. These provisions were identical to those contained in Senator Johnston's bill, S. 1912. After holding extensive hearings on H.R. 7381, running more than 7 days, the House committee made a number of changes in the bill.

Before discussing these bills, I would like to tell you briefly why we believe that the need to revise the dual-employment and dual-compensation laws is urgent.

Senator YARBOROUGH. I did not mean to limit you because we do need this preliminary explanation first so that all of the testimony would be more understandable to explain what the situation is, what the weaknesses intended to be corrected are, and the solution offered by these bills.

Mr. MACY. Fine, then, Mr. Chairman, I will proceed with the statement and try to move along as rapidly as I can.

THE EFFECTS OF THE CURRENT LAWS

There are now over 50 different laws and around 200 separate Comptroller General decisions relating either to the employment of retired military personnel in Federal civilian positions or to the employment of a civilian in two different Federal positions. Three of these laws, the acts of 1894, 1916, and 1932, have general application.

The 1894 act prohibits any person who holds one Federal office paying \$2,500 a year or more from holding any other office in the Federal service. A retired member of the Armed Forces is considered to hold an "office" for the purpose of this act. In 1894, very few retired military officers received \$2,500 in retired pay and only a few Federal civilian offices paid \$2,500 per year. This prohibition, therefore, may not have been too severe. Today, however, this law, in effect, bars any retired military member, not otherwise exempt from the law, from holding any Federal job.

There are now many exemptions from this 1894 act, including all regular and temporary officers retired for disability, all retired Reserve officers, and all retired enlisted men. A Regular commissioned or warrant officer retiring after 20 or more years of active duty, therefore, is barred from Federal employment but a Reserve officer who similarly retires after 20 years of active duty may be employed. This is an obvious inequity.

The 1932 act provides that retired commissioned officers employed in Federal civilian jobs may not receive any part of their retired military pay which in combination with their civilian salary would result in a total annual compensation of more than \$10,000. This limitation does not apply to retired commissioned Reserve officers, to retired enlisted men and warrant officers, or to any commissioned officer retired for disability incurred in combat during time of war. Since Regular and temporary officers retired for reasons other than disability are already barred from Federal civilian employment by the 1894 act, the only retired military personnel actually subject to the \$10,000 dual-compensation ceiling in the 1932 act are Regular and temporary commissioned officers retired for noncombat incurred physical disability. Here again, the inequity of the current law is evident.

The 1916 act, which came between the above two acts in point of time, applies only to the holding of two civilian Government positions. It provides that no person may receive two Federal salaries when the combined rate exceeds the sum of \$2,000 per annum. Many agencies have had to go to Congress to obtain special statutory exemptions to this law because of their special situations.

All three of these acts may have been quite reasonable at the time they were enacted or last amended. Because of changing economic and employment conditions, however, the limitations imposed by these laws have long since become unrealistic and obsolete. In many cases, the Government has been denied the services of highly trained retired military personnel with scarce skills. In addition, so many exceptions to these laws have been made on a piecemeal basis that the present legal hodgepodge is extremely difficult even for skilled personnel specialists to understand. Last but not least is the impossibility of applying the laws equitably.

Let me comment very briefly on each of these three points:

1. One of the worst current effects of the 1894 and 1932 laws is the waste of certain trained manpower so badly needed in the Federal civilian service. In order to keep the military officer corps at the peak of physical vigor and efficiency, many are retired at a relatively early age, some after only 20 years of military service. Many of these retired officers are highly qualified as scientists, engineers, medical officers, nurses, and specialists in other fields where well-qualified peo-

ple are in scarce supply. The country simply cannot afford to waste this skilled manpower or to make it unavailable to the Federal service.

2. From the standpoint of good administration alone, a single, simplified dual-compensation law would save much of the time and money now spent in the executive branch in an attempt to administer and enforce the existing collection of obsolete, complex, and unrealistic statutes. Despite the best efforts of those concerned, errors are still made in the employment or nonemployment of retired military personnel, because of the prevalent lack of understanding of the proper application of the complex variety of dual-compensation statutes. On the one hand, a military retiree who is actually eligible for Government employment may be advised that he is not eligible, with the result that both he and the Government may suffer. On the other hand, a military retiree may be employed in good faith but illegally, and be caused serious financial hardship when the error is discovered later on.

The record shows that both last year and this year a large number of retired commissioned and warrant officers who accepted Federal civilian employment have been or are now faced, because of recent legal interpretations, with the possibility of having to refund overpayments of military retired pay or civilian salary. The repayments required in these cases amount to very considerable sums, in some cases in excess of \$50,000. S. 1912 and H.R. 7381, incidentally, include provisions which would relieve these retired personnel from the requirement of reimbursing the Government for those unintentional overpayments. Many other individual cases have occurred over the years.

3. We do not believe that it is equitable to bar a retired Regular officer from Federal employment and permit the employment of a retired Reserve officer who has actually served on active military duty for the same length of time. Nor does it seem equitable that a Government contractor may offer a full salary to a retired Regular officer with skills, such as electronics or aeronautical engineering, needed in Government, and perhaps acquired at Government expense, but that a Government agency may not employ him even with a substantial reduction in his total compensation. Nor, in general, does it seem equitable to deny Federal civilian employment to well-qualified retired Regular officers, alone of all U.S. citizens not convicted of felonies, at an age and with family responsibilities which make earning an income essential in many cases.

Most persons will agree that the existing dual compensation and dual employment laws are wasteful, confusing, and inequitable and that they should be replaced by a single modern statute clearly setting forth the Government's policy on the employment of retired military personnel in the Federal service. In considering what the policy should be, there are two major issues which arise.

The first issue concerns the limitation on retired pay, if any, which should be applied when a retired military member is employed in the Federal civilian service. Many informed people believe that military retired pay is actually deferred active-duty pay and that retired military personnel employed as civilians should therefore receive their full military retired pay as well as their full civilian salaries. There are many others who believe with equal conviction that retired military personnel should receive no military retired pay while employed by the Government as civilians. Still others believe that there should

be some ceiling on the combined amount of military retired pay and civilian salary which such retired military personnel could receive.

The second major issue, Mr. Chairman, concerns the possible effect on civilian career employees of the Government and on the merit system in general of the employment of retired Regular officers as well as other retired military personnel. This issue has become especially important because of the significant recent increase in the number of 20-year optional retirements resulting from the World War II build-up of the military forces.

Many of these retirees are relatively young, some only 38 years old. Naturally, they wish to start a civilian career, and must do so out of economic necessity in many cases. They should be given the same opportunity as any other U.S. citizen to be considered for Federal employment. As veterans, under current law, they would be entitled, if employed, to veterans' preference in reductions in force. Their years of military service, including peacetime service, would also be credited in computing their seniority on reduction-in-force registers. Thus, retired military members would acquire, under existing laws, substantial advantages as civilian employees over career civilian employees.

Furthermore, there is the frequently expressed concern that retired military personnel may receive preference in employment because of their prior military service or contacts.

In our long study of these problems and issues, Mr. Chairman, and they expand a period of nearly 8 years, we came to the conclusion that four criteria should be met by a sound dual compensation statute:

1. It should codify all the existing dual compensation-dual employment laws into one understandable law.
2. It should provide for equitable treatment of all retired military personnel concerned, whether Regular or Reserve, commissioned officer, warrant officer, or enlisted.
3. It should make it possible for the Government to recruit well-qualified retired military personnel possessing scarce skills needed for Government programs.
4. It should protect Federal career civilian employees from certain advantages enjoyed by retired military personnel solely as a result of prior military service.

The Commission's original proposal, as embodied in S. 1912, fully meets these four criteria and we, accordingly, continue to support enactment of legislation along the lines of that bill. I shall have these criteria in mind in my following comments on the specific provisions of H.R. 7381, as amended by the House committee.

MAJOR PROVISIONS OF H.R. 7381

First, I should like to say that we believe H.R. 7381, as amended by the House committee, would go far to resolve certain of the problems I have already touched upon briefly. There is, however, one provision in the bill, as amended, which would cause serious new problems and which we would, therefore, strongly oppose. I will go into this further in a few moments.

Employment of retired member of uniformed services:

Most of my statement today, Mr. Chairman, pertains to title II of H.R. 7381, as reported by the House committee. It is in this title,

dealing with the employment of retired military personnel, that the more important changes were made in the administration's proposal by the House committee.

DUAL COMPENSATION LIMITATION

Subsection 201(a) of H.R. 7381 establishes the general policy that a retired Regular officer may hold a civilian office and receive the full civilian pay of the position and the first \$2,000 of his retired pay plus one-half of the remainder, if any. This provision would perpetuate the inequity of current laws by continuing to treat Regular officers, including warrant officers, differently from Reserve officers and enlisted men in this respect. We prefer the administration's proposal, embodied in S. 1912, as being more equitable. We believe the limitation should control the amount of dual compensation received without regard to a person's former status as an officer or an enlisted man, or as a member of the Regular or Reserve component. In line with this and in view of the recent military pay increases approved by the Congress, we believe the exemption from reduction in military retired pay should be increased from \$2,000 to \$2,500.

If retired enlisted men are covered under a dual compensation formula of "\$2,500 plus one-half," it is estimated that about 14 percent of such retired enlisted men would be subject to a reduction in retired pay in the event of their employment in the Federal civilian service. The average reduction in retired pay of those enlisted men whose retired pay exceeded \$2,500 would be about 9.5 percent.

In addition to the foregoing changes, we also suggest that all retired military personnel with less than 20 years active military service should be exempt from the dual compensation limitation. Such an exemption would be consistent with exemptions provided from certain other provisions of the bill, and would exempt from any reduction in compensation most disability retirees and all "title III" reservists, who normally serve on active duty only during national emergencies.

Subsection 201(a) also provides that the \$2,000 exemption would be increased in direct proportion to each future increase in retired pay under section 1401a(b) of title 10, United States Code, to reflect changes in the Consumer Price Index. This is a provision added to the bill by the House committee. We believe it is a definite improvement and will prevent the dual compensation formula from becoming obsolete and requiring additional legislative action several years hence.

SPECIAL EXEMPTION AND RELIEF PROVISIONS

Subsections 201(b) through 201(f) provide for certain exemptions from the dual compensation limitation and subsections 201(g) and (h) contain the relief provisions for those temporary commissioned and warrant officers recently found to be employed in technical violation of existing laws. There is only one provision in these several subsections with which we are not in full accord.

Subsection 201(e) provides authority for the Administrator of the National Aeronautics and Space Administration to exempt persons in certain positions from the dual compensation limitations. We have no doubt that there is adequate justification for making these exemp-

tions. However, we believe a specific provision in the law for one agency is neither needed nor desirable. There is ample authority in this same subsection for the Commission to authorize justified exemptions in NASA and other agencies by regulation. The inclusion of this special provision in the bill might well encourage other agencies to seek similar statutory exceptions in the future, resulting once again in the current confusion of laws relating to dual compensation.

VETERANS' PREFERENCE

Section 202 of H.R. 7381 amends section 12 of the Veterans' Preference Act to curtail somewhat the advantages over career civilian employees which retired career military personnel now have in reductions in force.

This section modifies the Commission's original proposal that all veterans' preference benefits be denied to retired military personnel who had completed a military career, and that they make a "fresh start" if they wished to begin a civilian career in Government. While we still prefer the original version, we would not object to the change made by the House committee since it still provides for more equitable competition between career civilian employees and retired military personnel in reductions in force, which has been the main problem in this area.

ANNUAL LEAVE ACCRUAL

Section 203 of H.R. 7381 amends the Annual and Sick Leave Act to provide a more restrictive method of crediting active military service of retired members for annual leave accrual purposes. We have no objections to the House committee's changes in this provision.

EMPLOYMENT OF RETIRED PERSONNEL IN DEFENSE DEPARTMENT

Section 204, added to H.R. 7381 by the House committee, incorporates into law in a somewhat expanded form certain existing administrative procedures of the Department of Defense. These procedures are intended to prevent preferential treatment of retired military personnel in filling Defense Department positions.

The section outlines sound public policy and we would have no objection to its enactment, although frankly, we would prefer that the administrative details not be written into statutes where avoidable.

REQUIREMENT FOR EXAMINATIONS

Section 205 is the one new provision I mentioned earlier as the one which we would have to oppose most strongly. This section was added to H.R. 7381 by the House committee on the day it voted to report favorably on the bill. Let me take your time to read this section to you:

SEC. 205. Notwithstanding any other provision of law, a retired member of any of the uniformed services shall not be appointed to any civilian office in the competitive civil service unless (1) the U.S. Civil Service Commission shall have given prior public notice of the fact that a vacancy exists in such office and of the fact that an assembled examination (including written tests, oral interviews, and security investigations), where practicable, or a combination of an assembled or nonassembled examination, where practicable, open to all

persons, is to be given at a specific time and place, but not before the 30th day after the date such notice is first given, and (2) such office is filled only from among those qualified persons who successfully complete such examination. This section shall not affect the authority of the Administrator of the National Aeronautics and Space Administration contained in section 201(e) of this title.

We do not know why this section was added to the bill nor exactly what it was intended to accomplish. However, our own analysis leads us to the conclusion that we might well be better off under the existing dual compensation laws, as obsolete and inequitable as they are, than under this bill if enacted with this particular provision.

One of the major purposes of H.R. 7381, as I indicated at the beginning of my statement, is to permit the employment in the Federal civilian service of well-qualified retired military personnel, subject to certain acceptable controls and limitations set forth in the bill. Section 205 of the bill, however, would substantially defeat this basic purpose because the practical effect of this section might well be to bar virtually all retired military personnel from employment in the competitive civil service.

If section 205 were enacted, it appears that under the specific language in that section the Commission would be faced with choosing between two basic alternatives:

1. To devise a completely different examining system for the competitive service which, while permitting the employment of retired military personnel, would be ineffective in recruiting other personnel needed by Federal agencies, or
2. To maintain the present examining system, and, by so doing, bar the appointment of retired military personnel as a normal matter.

Under the present examining system, generally speaking, examinations are now held for general occupations where our past experience or manpower forecasting systems indicate the need. Lists of eligibles resulting from these examinations provide agencies with qualified persons from whom to draw upon immediately as individual vacancies arise. There is, therefore, a minimum lapse of time between the decision to recruit to fill a vacancy and the appointment of a qualified individual to the vacancy.

Under section 205 of H.R. 7381, however, examinations could not be announced for general occupations in advance of individual vacancies. The announcement of an examination could not be made until a specific vacancy occurred in a particular agency. This would result not only in critical delays in filling positions with qualified people, but could also lead to such a multiplicity of examinations that we would end in administrative chaos and public ridicule.

If faced with the choice of destroying the flexibility and effectiveness of the present examining system or, in essence, barring all retired military personnel from Federal employment as a normal matter, the Commission would necessarily choose the latter.

Such action would not only deny to the Government the services of many well-qualified persons in highly skilled, shortage occupations, but would also be completely unfair to men who have served their country as military officers or enlisted men, in time of war and in time of peace.

DUAL COMPENSATION FROM MORE THAN ONE CIVILIAN OFFICE

Title III of H.R. 7381 relates solely to the employment of civilians in more than one Federal job. It replaces the 1916 dual compensation act and related laws. Briefly, it establishes a general policy that Federal employees may not receive basic compensation from more than one Federal position for more than an aggregate of 40 hours of work in any one week. The Civil Service Commission, subject to the supervision and control of the President, is authorized to provide for exceptions to this general policy where warranted on the ground that the personal services needed cannot otherwise be readily obtained. The authority of the Commission to make such exceptions would not apply to positions in the Senate, House of Representatives, or the Office of the Architect of the Capitol. A separate provision relating to exceptions for these positions is included in the bill.

The Commission agrees with title III as approved by the House committee and recommends its enactment.

SUMMARY

Mr. Chairman, in summary, while we continue, in general, to prefer S. 1912, the Commission's position on H.R. 7381, as reported by the House committee, is as follows:

1. With the exception of section 205, it represents a forward step in dealing with the civilian employment of retired military personnel;
2. It would be more equitable if the dual compensation limitations provisions of section 201 were revised as I have proposed;
3. Section 205 would cause very serious problems and inequities, is unrealistic, and should be deleted from the bill.

I will leave with you, for your consideration, and study by the committee, a proposed amendment to H.R. 7381 which would accomplish the various suggestions I have made for improving the bill.

(The amendments to H.R. 7381 is as follows:)

AMENDMENTS TO H.R. 7381 TO MAKE THE CHANGES RECOMMENDED BY JOHN W. MACY, JR., CHAIRMAN, CIVIL SERVICE COMMISSION

Section 201(a)

Page 25, lines 11 and 12, strike out "officer of any regular component" and insert in lieu thereof "member of any".

Page 25, lines 16 and 18, strike out "\$2,000" and insert in lieu thereof "\$2,500".

Section 201(b)

Page 28, strike out lines 2 to 8, inclusive, and insert in lieu thereof the following: "member of any of the uniformed services--

"(1) whose retirement was based on disability (A) resulting from injury or disease received in line of duty as a direct result of armed conflict or (B) caused by an instrumentality of war and incurred in line of duty during a period of war (as defined in sections 101 and 301 of title 38, United States Code); or

"(2) whose service does not include 20 or more years of full-time active service (regardless of when performed but not including periods of active duty for training)."

Section 201(c)

Page 28, line 11, strike out "officer of any regular component" and insert in lieu thereof "member of any".

Section 201(e).

Page 28, lines 2 to 12, inclusive, strike out the sentence beginning "The Administrator of the National Aeronautics and Space Administration".

Section 201(f)

Page 28, line 14, strike out "officer of any regular component" and insert in lieu thereof "member of any".

Page 29, lines 7, 13, and 15, strike out "officer" and insert in lieu thereof "member".

Section 205

Page 34, strike out lines 17 to 25, inclusive.

Page 35, strike out lines 1 to 7, inclusive.

Section 206

Page 35, line 8, strike out "Sec. 206" and insert in lieu thereof "Sec. 205".

Section 101(1)

Page 24, line 15, strike out "officer," if and only if all of the above amendments to section 201 are adopted.

Mr. MACY. Thank you, Mr. Chairman, thank you, Senator Boggs, for affording me the privilege of appearing before you this morning and offering this statement with respect to this legislation.

Commissioner Hampton, Mr. Leich, Mr. Witham, and I are available to you for questioning concerning this testimony or any other related matters that bear upon the committee's consideration of this very important legislation.

Thank you, sir.

Senator YARBOROUGH. Senator Boggs?

Senator BOGGS. Mr. Chairman, I wish to say at the outset that on this very complex proposal I think Mr. Macy, Chairman of the Civil Service Commission, has made a very fine presentation. It is very helpful, and I appreciate it greatly.

I know some of these questions that I might have may seem very simple, but your answers will help to clear up several things in my mind.

Mr. Macy, on the point of some officers who retired at 20 years from the military service, not necessarily of their own choosing, would the restrictions in this bill make it difficult for these persons to obtain Government employment?

Mr. MACY. Your question relates to those who are retired after 20 years of service through the selection out process?

Senator BOGGS. That is right.

Mr. MACY. No. The proposal in this legislation would make it possible for those who have retired after 20 years of service to compete for civil service positions through the normal examining process and to be appointed, if they were within reach, and to receive compensation for their civilian position, plus the first \$2,000 or as we have proposed, \$2,500, plus one-half of the balance of their retired pay. We have taken the middle position here between those views that there should be no retired military pay for retired military personnel in civilian positions and the view that all of the retired pay should be given.

It is our belief that because of the nature of the military career and the nature of civilian employment it is desirable not to have the total of both salaries but it is also unfair to deny the drawing of military retired pay, and we believe that this compromise position preserves

the equities to a high degree and also does not unfairly treat military personnel.

Senator BOGGS. Your objection to section 205: Did I understand you to say that you have recommended amending that or did you just recommend that that be deleted?

Mr. MACY. I recommended that section 205 be deleted in toto. My views cannot be too strongly expressed on this.

I am unable to find in the legislative history any reason for this particular section. It would in effect require a total overhauling of the examining procedures of the Civil Service Commission, not only as they relate to military retired personnel, but to all competitors for civil service positions.

Senator BOGGS. Thank you, Mr. Chairman. Thank you, Mr. Macy.

Senator YARBOROUGH. Mr. Macy, in section 205, I note that you direct the main attack at that on the basis that it provides that notice must first be given of an existing vacancy before you can give examinations for people who would fill it. This would always necessitate a time lag when there was a vacancy before you could fill it with competent personnel. It seems to me that is a good objection. If the words "the fact that a vacancy exists" were taken out of the fifth line of section 205, would you still have the same objection to that section?

Mr. MACY. I would still have the objection because it seems to me that what would still be the case is that you would create an obstacle course of undue and unfair proportions for the military retiree in competing for Federal positions because the statute without 205 requires that a military retiree go through the normal civil service process in competing for consideration and my belief is that the normal process assures that the merit system is being properly adhered to.

Senator YARBOROUGH. Well, that was my next question.

In the present applications for employment are retired military personnel and purely civilian personnel both treated alike in the qualifications required? Do they both have to go through the examinations?

Mr. MACY. Yes, sir. There will be no distinction, and in section 204, and in the so-called Gilpatric memorandum, the Department of Defense has been assured that there will not be preference for retired military personnel who may compete for positions within the Department of Defense.

Senator YARBOROUGH. Both receive equal treatment under the law under existing statutes insofar as qualifications for the office are concerned, disregarding the matter of dual compensation?

Mr. MACY. That is right, this statute was not intended to change that.

Senator YARBOROUGH. Any questions by the staff?

Mr. MINTON. Mr. Macy, you said you would have to revise your examining procedures both in regard to the employment of military personnel and without regard to the military personnel. Would you care to clarify that a little bit?

Mr. MACY. Yes, because this assumes that once a vacancy has been established you would then initiate the announcement, the examining, the rating, and the certification process.

It also builds in a period of delay for notice. It would be necessary for the Commission to redesign its system to incorporate this process for all jobs.

Mr. MINTON. Because you would never know whether a military person—

Mr. MACY. No, you would not know whether you were going to get the general public as well as the military retiree.

Now, my impression is that section 205, as it has been written, assumes that the retiree is to be hired before a selection is even considered. Well, this is an inappropriate assumption, because the military retiree must meet the qualifications standards for competing in the examination, he must take the examination, whatever its form may be, assembled or nonassembled, he must be rated in competition with others who are in that examination, he must go through the certification process for selection. In my opinion this is an adequate safeguard as administered by the Commission and its board of examiners today to assure that there is not favoritism in the process with respect to those who are retirees, and there is further action in the Department of Defense through the Gilpatric memorandum, and through section 204 in the bill to see to it that there is no preference because of the presence of the retiree within the Military Establishment at the time he retires and is considered for civilian employment.

My belief is, as I have expressed in my testimony, that section 205 virtually nullifies one of the basic principles, my principle No. 3, that we seek in this legislative reform.

Senator YARBOROUGH. Any further questions of the staff?

Mr. GULLEDGE. Yes.

Senator YARBOROUGH. Mr. Gulledge.

Mr. GULLEDGE. Mr. Chairman, I have one question.

Mr. Macy, on page 11 of your prepared statement, pertaining to section 204, you mention that this section incorporates into law in somewhat expanded form certain existing administrative procedures in the Department of Defense. I wonder if we could get that expanded upon for the benefit of the committee. What did you have in mind about certain existing administrative procedures?

Mr. MACY. Yes, I would be happy to, Mr. Gulledge.

What I am referring to there is what in the popular parlance has become known as the Gilpatric memorandum.

Deputy Secretary of Defense Gilpatric, on July 5, of 1961, in response to interest expressed in the Congress and in the executive branch issued to the Secretaries of the Army, Navy, and the Air Force, a policy with respect to the employment of retired military personnel and established certain administrative safeguards in the form of higher level review with respect to those military retirees who were seeking employment in the same establishment where they had served within the service.

I would be pleased, Mr. Chairman, to submit for the record of this hearing a copy of the Gilpatric memorandum of July 5, 1961, another memorandum dated October 30, 1962, also from Deputy Secretary Gilpatric, which covered retired military personnel in non-appropriated fund positions as well as in those funded by appropriations.

These are the administrative practices which I referred to in the first paragraph on page 11.

Senator YARBOROUGH. Do you have a copy there of the Gilpatric memorandums?

Mr. MACY. Yes, sir.

34 DUAL-COMPENSATION AND DUAL-EMPLOYMENT LAWS

Senator YARBOROUGH. If you have an extra copy I would like to have that inserted in the record at this point.
(The memorandum referred to follows:)

JULY 5, 1961.

Memorandum for the Secretary of the Army.
the Secretary of the Navy.
the Secretary of the Air Force.

Subject: Employment of retired military personnel.

The basic objective in filling civil service positions is to assure the appointment of fully qualified individuals—generally the best qualified among those under consideration. In most instances this should be a candidate selected from eligible career employees, in accordance with inservice placement and promotion procedures.

There are, however, instances in which it is desirable and necessary to recruit from outside the Federal service. In such instances, the objective remains the same: to appoint the best qualified person available.

One source of outside recruitment is retired military personnel who, within statutory limitations, have every right to seek and to be considered for civil service positions on the same basis as other citizens. Furthermore, for some positions, there will be retired military personnel who possess qualifications which make them a particularly good recruitment source.

In the Department of Defense, however, we have a special obligation to assure that consideration of retired military personnel for civil service positions is extended on an equitable basis and that there is strict compliance in spirit and in procedure with the fundamental merit system principle of open public competition. Such an approach is essential not only in the interests of the public and of career civil service employees, but in order to protect retired military personnel from unwarranted allegations that they obtained their positions through influence based upon prior military service.

To establish safeguards which will reassure all concerned that selections for civilian positions in the Department of Defense are being made on an equitable basis it is requested that, to the extent not already incorporated in your respective personnel regulations, you include the following instructions and establish any controls needed to assure that they are complied with:

1. Full consideration, in accordance with inservice placement and promotion procedures, will be given to eligible career employees before selecting retired military personnel for a civil service position.

2. When selection is from an established civil service register, retired military personnel will be accorded treatment consistent with the provisions of the Veteran's Preference Act and civil service regulations.

3. Before selecting a retired military person for a civilian position, other than by certification from an established civil service register, recruitment for the position will be conducted in a way designed to assure that reasonable efforts are made to obtain applicants from all possible sources and in a manner that will avoid any suspicion of attempts to unduly limit competition. This requires that the vacancy be well publicized and recruitment conducted over a period of time long enough to give all interested candidates an opportunity to apply and that qualification requirements for a position not be written in a manner designed to give advantage to a particular individual. This will not be interpreted, however, to require any special recruitment efforts or delays in selection for shortage category positions for which advanced hiring rates have been approved.

4. Positions will not be held open pending the retirement of a person in the military service in order to provide that person with a preferential opportunity to be appointed to the position.

5. Action to employ a retired military person at an installation at which he was stationed for duty within the 6-month period immediately preceding the proposed appointment will require prior approval by the Secretary of the military department concerned or his designee for the purpose. Requests for such approval will be accompanied by a statement of the actions taken to comply with numbered paragraphs 1 to 4, above, and of the procedures followed in determining that the retired person was the best qualified applicant. Exception to this requirement for prior clearance may be made for shortage category positions for which advanced hiring rates have been approved.

ROSSELL L. GILPATRICK,
Deputy Secretary of Defense.

Signature authenticated by:

HENRY E. LOFDAHL,
Chief, Correspondence Control Section.

OCTOBER 30, 1962.

Memorandum for The Secretaries of the military departments.
The Administrative Assistant.

The Chief, Defense Atomic Support Agency.
The Director, Defense Communications Agency.
The Director, Defense Intelligence Agency.
The Director, Defense Supply Agency.
The Director, National Security Agency.

Subject: Employment of retired military personnel in nonappropriated fund positions.

Reference is made to my memorandum of July 5, 1961, subject: Employment of retired military personnel.

While this memorandum dealt only with the filling of civil service positions, the basic concepts in the memorandum have equal application to the filling of positions in the Department of Defense which are not in the competitive civil service, such as those paid from nonappropriated funds. Positions in Federal instrumentalities, regardless of the source of the funds, are public positions and the Department has an obligation to assure that equal consideration is given to all citizens seeking employment in such positions.

The objective with regard to these positions must be to obtain the best qualified persons on a completely fair and objective basis. Generally, as with civil service positions, a well-qualified person can be found among the present employees of the activity. When positions cannot be filled by inservice placement and it is necessary to resort to outside recruitment, all persons, including eligible retired military personnel, have a right to be considered on an equitable basis.

In order to assure that this concept is carried out and to protect retired military personnel from unwarranted allegations that they obtained their positions through influence based upon prior military service, it is requested you include the requirements listed below in the employment regulations and procedures of the various nonappropriated fund activities and establish any controls needed to assure that they are complied with when filling full-time positions:

1. Full consideration, in accordance with inservice placement and promotion procedures, will be given to qualified current employees of the nonappropriated fund activity before resorting to outside recruitment, including the selection of retired military personnel for nonappropriated fund positions.

2. Before selecting a retired military person, recruitment for the position will be conducted in a way designed to assure that reasonable efforts are made to obtain applicants from all possible sources and in a manner that will avoid any suspicion of attempts to limit consideration to a particular individual or class of individuals.

3. Qualification requirements for a position will not be established in a manner that will give advantage to a particular individual or exclude from consideration appropriate civilian experience as opposed to military experience. It is recognized that for some positions retired military personnel or others with military experience make a particularly good recruitment source as; for example, applicants for a position as an exchange officer, exchange manager, or club officer who have served in a similar capacity while in a military status. This should not preclude, however, impartial consideration of other applicants who have civilian retail management or club management experience.

4. Positions will not be held open pending the retirement of a person in the military service in order to provide that person with a preferential opportunity to be employed in the position.

5. Action to employ a retired military person at an installation at which he was stationed for duty within the 6-month period immediately preceding the proposed employment will require prior approval by the Secretary of the military department concerned or his designees for the purpose. Requests for such approval will be accompanied by a statement of the actions taken to comply with numbered paragraphs 1 to 4, above, and of the procedures followed in determining that the retired person was the best qualified applicant.

A copy of the instructions issued to comply with this memorandum should be furnished the Assistant Secretary of Defense (Manpower) by December 1, 1962.

ROSWELL GILPATRICK.

Senator YARBOROUGH. Any further questions?

Mr. GULLEDGE. No further questions, Mr. Chairman.

Senator YARBOROUGH. Chairman Macy, I have a question about your statement that your authority would not apply to positions in the

Senate, House of Representatives, or the Office of the Architect of the Capitol, to except from the provisions in the bill that relates to those, and I presume you refer to the provisions under limitations on dual compensation beginning at page 36 of the House bill and relating to employees of the Senate, of the House, and the Architect of the Capitol, and there are some six classes of exceptions there; and then under section 6 there are about eight or nine different statutes relating thereto and referred to.

Does this proposed measure change in any way the existing statute pertaining to the Senate, the House, and the Office of the Architect of the Capitol concerning dual compensation?

Mr. MACY. No, I believe it does not. The reference in my testimony was to exempt from the regulatory control of the Civil Service Commission the positions pertaining to the legislative branch.

Mr. WITIAM. They would be treated the same as those in the executive branch, except that the Civil Service Commission would have no authority to make regulations. These would be done in each House, but they are subject to the law.

Senator YARBOROUGH. Yes, but I was asking were these statutes changed any? Does this bill change any existing statutes?

Mr. WITIAM. They are now subject to the 1916 law but there are certain exceptions that have been made for their benefit. Now, these same exceptions to the provisions of the bill may be made.

Senator YARBOROUGH. This bill does not change any existing statutes in regard to dual compensation insofar as the legislative employment is concerned?

Mr. WITIAM. It revises the 1916 law. It does not amend any of the existing laws specifically relating to the legislative branch—just the general laws that included that branch.

Mr. MACY. It is primarily a codification of that.

Senator YARBOROUGH. No change?

Mr. MACY. That is right.

Senator YARBOROUGH. I will give you an example of one problem in the legislative branch. The pay is rather low here and this problem arises largely in the summer when normally in the past Congress would adjourn by Labor Day. In a normal year in the speedup process which begins about May, the work accelerates in May, June, July, and August. Now, we get some relief from the extra burden of reproduction of laws during June, July, and August with student employment. We have a mail room that hires a good many students or young people during the summer on an hourly basis. Sometimes they may have 4 hours, 4 days' work a week, or 4 or 5 hours a day. They would like to work more; we could employ them for 3 or 4 more hours a day if they worked 4 or 5, but I believe existing laws prohibit that; do they not?

Mr. WITIAM. There is a law that prohibits that, but because of the pay system over here I understand that the limitation does not apply to many of these. This is the 1916 law.

Under this bill, if it applied, you would have authority right here to make an exception for these particular cases, so you could continue the present practice. The House committee wanted to permit this to be done but not to say how it would be done, but leave this up to the House and the Senate to do it.

Senator YARBOROUGH. I believe there is a little more liberality of operating procedures over in the House than we have here.

Mr. Paschal.

Mr. PASCHAL. Mr. Chairman, on this topic you are speaking of now, you say those would be exempted. Does that come under the exemption provided in this bill for the Speaker of the House and the Senate and the President?

Mr. WITHAM. You mean in this same part he is talking about or in the dual compensation?

Mr. PASCHAL. I am talking about the exemptions you were speaking of in answer to the chairman's question.

Mr. WITHAM. Yes.

Mr. PASCHAL. They would come under that proviso?

Mr. WITHAM. That is right.

Mr. PASCHAL. Thank you.

Senator YARBOROUGH. Any further questions?

Thank you, Chairman Macy, and those gentlemen with you, Commissioner Hampton and the staff members with you.

Thank you very much.

Mr. MACY. Thank you, sir.

Senator YARBOROUGH. I think you have given us a good bird's-eye view of what the future witnesses are going to testify about.

The next witness is Winston G. Whall, Assistant Director, Compensation Affairs, Office of the Assistant Secretary of Defense for Manpower, Department of Defense.

**STATEMENT OF COL. WINSTON G. WHALL, U.S. ARMY, ASSISTANT
DIRECTOR, COMPENSATION AFFAIRS, OFFICE OF THE ASSISTANT
SECRETARY OF DEFENSE (MANPOWER)**

Colonel WHALL. Thank you, Mr. Chairman.

I appreciate the opportunity to appear before this committee as the Department of Defense witness on S. 1912, which was submitted by the Civil Service Commission, and H.R. 7381, the administration's legislative proposal which has been reported favorably by the House Committee on Post Office and Civil Service in an amended form. We consider this proposal to be one of the most important pieces of legislation that has been presented to this Congress and urge favorable consideration by the Congress.

Because Chairman Macy has discussed with you the purpose and justification for this legislative proposal, and presented the administration's views on H.R. 7382, as amended, I will not attempt to go into the details of these bills. However, I wish to discuss briefly the major considerations which have led us to support the purpose and objectives of this legislative proposal.

In the Department, we are not only concerned with the morale and well-being of the civilian work force, but we also are keenly aware of our obligation to insure that retiring military personnel, many of whom are forced to terminate their military career at a time when they are relatively young and with family responsibilities at their peak, have an equal opportunity to seek civilian employment on the same basis as other citizens. We believe that enactment of this legislation will provide consistent and equitable treatment for all categories of

retired personnel and in addition, will safeguard the career opportunities of our Federal civilian employees.

The inequities and inconsistencies in the existing statutes create a serious morale problem among our military personnel, both active and retired, and has been of great concern to us all. It is hard to rationalize and more difficult to explain under today's conditions the fact that certain retired military personnel are barred completely from Federal civilian employment while others may be employed subject to certain compensation limitations and others may be employed without any limitation on their total combined income.

This disparity in the treatment of our retired personnel may have been justified at the time these statutes were enacted. However, conditions today within the Military Establishment are considerably different and we see no basis for this distinction.

Within our Active Armed Forces we have large numbers of Reserve officers who entered the military service during the World War II buildup and have remained on active duty to meet the continuing requirements of our Armed Forces since that period. They are now achieving retirement eligibility after 20 years of active service and retire under the same laws that apply to Regular officers. In fact, the laws that pertain to the voluntary and physical disability retirements of Regular officers, Reserve officers, and enlisted personnel are the same.

Although there are only two basic laws which place Government-wide restrictions on the civilian employment and total compensation of retired military personnel, the exceptions by statute and judicial interpretations, together with the numerous decisions of the Comptroller General, have created a situation which is confusing and complex and most difficult to administer. Two recent decisions of the Comptroller General highlight the confusion surrounding the application of these laws to our retired military personnel.

It has long been held that Reserve officers were not subject to the dual compensation restrictions of the Economy Act of 1932. However, on July 9, 1962, the Comptroller General held that Reserve officers of the Army or the Air Force who were serving on active duty in temporary grades (to which they were appointed under sec. 515 of the Officer Personnel Act of 1947), equal to or higher than their Reserve grades at the time of retirement for physical disability, may not be considered as having been retired under laws relating to Reserve officers so as to exempt them from the dual compensation restrictions of this act.

As a matter of equity, there appears to be no logical reason why the dual compensation restrictions should apply to a Reserve officer who served on active duty as a temporary officer in a grade equal to or higher than his Reserve grade and who retired for physical disability, and such law should not apply to (1) a Reserve officer who served on active duty as a temporary officer in a grade lower than his Reserve grade and who retired for physical disability, and (2) a Reserve officer who served on active duty as a temporary officer and retired with 20 or more years of service.

It has been determined that there are approximately 475 Reserve officers who are affected by this decision and at the present time nearly 225 have a combined retired pay and civilian income in excess of

\$10,000. Consequently, since October 1, 1962, the Army and the Air Force have reduced the retired pay of these officers. The average monthly amount being withheld is approximately \$200, with certain officers having their retired pay reduced by as much as \$350 per month. The remaining members of this group, although not having their retired pay reduced at this time, will suffer reductions in their retired pay when and if their total combined income reaches \$10,000.

The Comptroller General has ruled that retroactive collection action may be postponed until the end of the 1st session of the 88th Congress. If this action becomes necessary, liability to the Government by some of these officers will be as high as \$30,000.

Senator YARBOROUGH. We are very rapidly approaching the end of the period of grace that was given by the Comptroller General about this.

Colonel WHALL. Yes, sir. We certainly are. About the 3d of January appears to be the date.

In addition to placing an undue hardship on the officers concerned, it has also caused the Federal Government to lose the services of certain employees, as it has been reported that certain temporary officers have terminated their Government employment as a result of this financial hardship. Section 102(f) of S. 1912 and section 201(g) of H.R. 7381, as amended, by the House Committee on Post Office and Civil Service, would relieve these retired officers from the requirement of reimbursing the Government from these overpayments.

The other group of officers who have been adversely affected by a recent Comptroller General decision are retired temporary warrant officers of the Army and the Air Force. These officers have always been considered, along with all other Reserve officers, as not being subject to the 1894 Dual Office Act. It has now been held that certain temporary warrant officers are subject to the limitations of this act in the same manner as regular warrant officers.

At the present time the military departments have identified 1,188 temporary warrant officers who are subject to this decision. Of this number, 872 are currently employed by the Federal Government and whose employment would have to be terminated as a result of this decision unless relief legislation is enacted. A review of the cases identified indicates that some of these temporary warrant officers have been employed since 1956 and 1957 with overpayments totaling as much as \$56,000.

With the understanding that future, as well as past, salary payments to these temporary warrant officers are not legal under the present law and will be subject to collection if legislative relief is not enacted, the Department has continued the employment of these officers until the end of the current session of Congress. If legislation making the 1894 act inapplicable to these warrant officers is not enacted during the 1st session of the 88th Congress, these temporary warrant officers, like the Reserve officers referred to earlier, will have to reimburse the Government for these unintentional overpayments.

Senator YARBOROUGH. Colonel Whall, a member of the staff wants to ask a question.

Mr. MINTON. Have some of these officers and warrant officers already started paying back this overpayment? Have they been having it deducted from their retirement pay?

Colonel WHALL. No, sir. There have been no payments of the overpayments. What has happened in the Reserve officers, that their pay was being reduced to the \$10,000 level beginning on October 1, but the overpayments prior to October 1, 1962, have not been collected, nor have the overpayments to the temporary warrant officers as of this time, but this holding is from their current pay and current retired pay.

Mr. MINTON. Thank you, sir.

Colonel WHALL. Section 102(g) of S. 1912 and section 201(h) of H.R. 7381, as amended by the House Committee on Post Office and Civil Service, would remove these retired temporary warrant officers from the limitation of the 1894 Dual Office Act and would relieve them from the overpayments.

Enactment of this legislation would make available to the Department of Defense an important source of skilled manpower. During each of the last 4 years roughly 10 percent of the personnel who have retired from active duty were Regular officers who could not be employed by the Federal Government because of the Dual Office Act of 1894. If current laws remain in effect and Regular officers continue to be barred from seeking Federal employment, we estimate that in each year through fiscal year 1970 approximately 4,000 to 6,000 Regular officers, or about 8 to 12 percent of the total number of annual retirements from active duty will be precluded from competing for Federal civilian employment. While this number is not great, it represents a group of highly motivated, well-trained individuals whose background, knowledge, and experience can be effectively utilized within the Department.

We have need for physicists, electronic engineers, marine engineers, bacteriologists, communications specialists, intelligence specialists, industrial hygienists, and operations analysts, to name a few, and have had difficulty in securing civilian employees with these qualifications.

As of December 31, 1962, there were spread throughout 108 Department of the Army activities 1,055 vacancies in grades GS-5 and above in these categories and represented roughly 4 percent of the 24,000 civilian employees in this group.

As of July 1, 1963, the Department of the Navy reported 1,144 vacancies and the Department of the Air Force reported 470 vacancies in grades GS-5 and above in the scientific, engineering, and operations analyst categories. Many of these retired Regular officers, having worked in various programs and projects requiring these skills and knowledge while on active duty, would be well qualified for these positions.

We recently made a survey within the Department to determine the number of Regular officers with scientific and professional degrees, such as engineering, medicine, the biological, physical, and social sciences, business, and law who are scheduled to retire from the Armed Forces during the next 10 years and who would not be eligible to compete for Government positions if the current dual employment laws remain in effect.

We estimate that, at the present time, there are approximately 18,000 officers in this category who will be retiring from the Armed Forces during the next 10 years. As these officers possess scarce skills which are in great demand in the civilian economy, I am sure we all agree that it would be to the advantage of the Government to

have these individuals eligible to compete for and accept Federal employment.

In summary, I would like to state that the Department of Defense believes that the enactment of S. 1912, the administration's dual compensation legislative proposal, which was submitted by the Civil Service Commission, would achieve the objectives for which it was designed; namely, to (1) place into one law all existing dual compensation and dual employment laws and thus overcome the many administrative problems and hardships which have been brought upon our people as a result of the many confusing and conflicting statutes and decisions; (2) provide equitable treatment of all military personnel, regardless of whether they are Regular or Reserve, officer or enlisted; (3) make available to the Department another source of highly trained manpower whose skills and knowledge are in great demand; and (4) remove many of the inequities affecting our career civilian employees.

We also consider that H.R. 7381, as amended by the House Committee on Post Office and Civil Service, would represent an important step forward in achieving the above objectives, and we also believe that the amendments proposed by Chairman Macy would greatly improve this legislative proposal.

We realize that with the increased number of retirements from active duty, and if this proposal is enacted into law, additional numbers of retired military personnel will seek civilian employment within the Department of Defense. As in the past, we will continue to take the necessary action to protect the career civilian employee when filling civil service positions to insure that retired military personnel do not receive an advantage as a result of their prior military service.

Furthermore, we realize that we have a special obligation to assure that consideration of retired military personnel for civil service positions is extended on an equitable basis and that there is strict compliance in spirit and in procedure with the fundamental merit system principle of open public competition.

We accept this responsibility, not only in the public interest, but we also desire to protect retired military personnel from unwarranted allegations that they obtained their positions through influence based upon prior military service.

Thank you for permitting me to appear before you this morning. I will be pleased to answer questions the committee may have concerning this legislative proposal and its application within the Department of Defense.

Senator YARBOROUGH. Thank you, Colonel Whall.

Senator Boggs?

Senator Boggs. No questions.

Senator YARBOROUGH. Any questions from the staff?

The staff has certain questions, Colonel Whall, that it has requested the committee to ask.

One is what is the logic of the 2,000-plus 50 percent of the remainder formula for Regular officers?

Colonel WHALL. Sir, the figure of \$2,000, at the time it was selected, it was selected primarily because it was approximately the average yearly retired pay of an enlisted man, however, with the recent pay raise, and as Chairman Macy has mentioned, raised it to \$2,300, which

would be the average. Now, the one-half of the remainder was chosen as a reasonable compromise between the view that the retired military man has earned and should be able to retain the entire amount of his retired pay and, of course, those on the other side who say that he should have none while he is working in a civilian job.

Of course, the position where he would receive all his retired pay did not recognize the policy which Congress has expressed over a hundred years, that there should be some limitation on the retired pay. This was a compromise position, a middle ground, so to speak.

Senator YARBOROUGH. What is the average retired pay of the Reserve officer?

Colonel WHALL. I believe, sir, that the 1964 budget figure that the average retired pay of a Reserve officer, of all Reserve officers, is about \$4,000 a year. That would be the amount they would be entitled to.

Senator YARBOROUGH. Then, certain retired officers take the position that the formula of \$4,000 plus 50 percent for regulars would be fairer than the \$2,000 plus 50 percent. Do you have any comment on that?

Colonel WHALL. Well, sir, the proposal of \$2,500, we consider equitable for all personnel who are retired—officers, enlisted, Reserves and Regulars, and as you know, the version as amended by the House applied the restrictions only to the Regular. If this was maintained then the position or the question there, it would be more equitable on that basis.

Senator YARBOROUGH. If it applied to one group only.

Colonel WHALL. If it applied to one group only, but our position, we maintain it should be equitable across the board.

Senator YARBOROUGH. Are there any other questions by the staff or members?

Thank you, Mr. Whall.

The next witness is Dr. Linus Zink, Assistant Chief Medical Director of the Veterans' Administration.

STATEMENT OF DR. LINAS A. ZINK, ASSISTANT CHIEF MEDICAL DIRECTOR, VETERANS' ADMINISTRATION; ACCOMPANIED BY DAVID A. TURNER, ASSISTANT GENERAL COUNSEL; AND A. T. BRONAUCH, DEPUTY ASSISTANT GENERAL COUNSEL

Dr. ZINK. Mr. Chairman and members of the subcommittee, we in the Veterans' Administration appreciate the opportunity you have extended to us to appear here today and to present our views with respect to this legislation which, if enacted, would be most helpful to our Department of Medicine and Surgery in administering the program of hospital and medical care for disabled and war veterans.

Since I understand that Chairman Macy of the U.S. Civil Service Commission either has discussed, or will discuss, with you the details and impact of this legislation with respect to the Government as a whole, I will confine my remarks to our area of principal interest—the recruitment of physicians, dentists, and nurses.

You are familiar with the keen competition for medical personnel. Many of you, and certainly the chairman because of his other capacity as chairman of the Veterans' Affairs Subcommittee of the Committee on Labor and Public Welfare, are also familiar with the difficulty we have in securing qualified physicians, dentists, and nurses to main-

tain the enviable high standards we have achieved in our veterans' program. Even though some splendidly qualified physicians, dentists, and nurses become available through retirement from the Armed Forces, the provisions of section 62 of title 5, United States Code, the so-called Dual Office Act, enacted in 1894, prevents us from availing ourselves of their services.

Today we are endeavoring to recruit a physician who is qualified in the new and rare specialty of hyperbarics—the use of high atmospheric pressure for treatment purposes. We have located an eminently qualified individual who would be willing to come with us, but because of the restriction upon appointing a retired Regular officer we are unable to avail ourselves of his services. This is not an isolated situation. We have had qualified radiologists and pathologists actually apply to us, but whom we are unable to employ because of the 1894 law.

Existing restrictions on the civilian employment of retired military personnel are generally agreed to be wasteful, unfair, obsolete, and difficult to administer. They are wasteful because they deprive the Government of the services of certain highly trained, technically skilled, retired military personnel, whose technical competence and professional skills, frequently acquired at Government expense, are in scarce categories and in great demand in Federal agencies.

Enactment of this legislation would provide a reservoir for recruitment of highly skilled and experienced personnel in those scarce categories of medicine, dentistry, nursing, and other scientific and paramedical specialties which are unavailable to the Department.

Frequently, the technical knowledge and understanding necessary for the performance of this work are frequently found only among those men who have served the Armed Forces during a career in uniform. In many instances, these scarce categories of skills and understanding have been perfected and developed through training provided at Government expense in the course of military service. Again, the training possessed by certain of these military officers is virtually unobtainable from any other source and would often be desirable in many positions in the Department.

The retired military personnel, consequently, constitutes a useful source of these scarce categories for civilian employment. This country cannot afford to waste this skilled manpower, especially in those areas of endeavor that are peculiar only to the medical profession of the Federal Government. Using the example that I have previously mentioned, the new field of radioisotopes, in which the Federal Government has been a leader, is illustrative of the skill that has been perfected in the Federal service.

Thus, it would be expected that this legislation would provide some relief in the continued employment of these professionally skilled personnel for these shortage category positions. Again, where these individuals are eagerly sought after by the private medical community, it would be much to the advantage of the Government and its many research establishments to have such persons on the Government payroll rather than in private industry.

Removal of the existing restrictions in these statutes would permit the Department of Medicine and Surgery to offer these retired officers continuity of Federal employment while permitting them to

retain the greater portion of their retirement annuity. As has been previously stated, many of these officers are retiring at a very young age and have many productive years of service to contribute to the welfare of the Government, and medicine in general. This legislation would permit the continued employment of retired officers without unduly jeopardizing the position or employment benefits and retention rights of its civilian employees.

In terms of absolute numbers, the retired physicians, dentists, nurses, and other specialists who would be employed in the Veterans' Administration if legislation such as here proposed becomes law would represent a minute fraction of overall Veterans' Administration employment. However, I can state that they would be persons whose skill and experience would be invaluable.

I have directed my remarks almost entirely to the desirability of repealing section 62 of title 5 which, in practical effect, is an absolute bar against the employment of retired regular officers. I am mindful, of course, that the bill also liberalizes the dual compensation law (5 U.S.C. 59a). Without going into these provisions extensively, let me say that to us the formula proposed seems fair and reasonable. It likewise would be most beneficial in extending the range of our recruitment opportunities.

Thank you again, Mr. Chairman, for giving us this opportunity to express our views and, in closing, let me state that the Veterans' Administration strongly urges favorable consideration of this legislation.

Senator YARBOROUGH. Thank you, Dr. Zink.

Any questions, Senator Boggs?

Senator Boggs. I would like to ask you to refer to page 5 of your statement, the first paragraph where you state:

This legislation would permit the continued employment of retired officers without unduly jeopardizing the position or employment benefits and retention rights of civilian employees.

Now, "unduly jeopardizing." Can you give me an example of how it would jeopardize it but not unduly?

Dr. ZINK. That is a good question, Senator Boggs.

Actually, I think this is an overstatement of saying unduly jeopardizing because what we are concerned with here are scarce categories that we cannot recruit up to the numbers required anyway, so they would not be jeopardizing, in my opinion, at all, the opportunities of civilians because invariably we have unfilled vacancies in this type of skill that we are looking for.

Senator Boggs. Thank you.

Senator YARBOROUGH. I think that doctors, dentists, and nurses who have served in the Armed Forces and have retired have certain mental aptitudes for serving in the Veterans' Administration and in working and moving from one large hospital or city or post to another. I know you do shift your doctors from hospitals to hospitals after certain tours of duty?

Dr. ZINK. Yes; we do not have specified tours of duty such as the military has, but we do move them around. This is one of the values of bringing in military people, well trained, aware of the same regulations, in many instances similarity is a tremendous advantage.

Senator YARBOROUGH. Thank you, Dr. Zink.

The next witness is Admiral Denfeld, U.S. Navy, retired, of the Retired Officers Association.

I understand you are accompanied also by Admiral Houser, the legislative counsel, U.S. Navy, retired, of the Retired Officers Association.

**STATEMENT OF ADM. LOUIS E. DENFELD (RETIRED), PRESIDENT
OF THE RETIRED OFFICERS ASSOCIATION**

Admiral DENFELD. Mr. Chairman, and members of the committee, I am Adm. Louis E. Denfeld, U.S. Navy, retired, president of the Retired Officers Association, with headquarters in this city.

The association consists of over 58,000 members, representing retired officers of all of the seven uniformed services, including both Regulars and Reserves, in all the 50 States. The association is grateful for the opportunity to present its views and recommendations on the bills S. 1912, and H.R. 7381 as reported by the House Committee on Post Office and Civil Service.

The Subcommittee on National Policy Machinery, of the Senate Committee on Government Operations, of which the chairman was Senator Jackson of Washington, recently addressed itself to the specific matter of the need for legislation in the areas covered by the pending bill.

The report of this subcommittee is found in committee print, 87th Congress, 1st session, entitled "Study Submitted to the Committee on Government Operations, U.S. Senate, by its Subcommittee on National Policy Machinery (pursuant to S. Res. 20, 87th Cong.)." It is desired to invite the committee's attention to the following which is contained in pages 5 and 6 of this report, and is headed "The Dual Compensation Statutes."

The so-called dual compensation statutes offer another illustration of a body of law adopted for one objective in the past but serving today to hamper the Government in recruiting top national security talent.

In broad, the law now says that retired Regular officers can serve the Government as full-time civilian officials only in Senate confirmation posts, or if they are retired for physical disability. Further, this limited group of retired officers who are allowed to accept civilian jobs must in most instances waive their retirement pay, waive their civilian pay, or else accept a limitation of \$10,000 on their combined annual income.

* * * * *

The laws not only discriminate against retired officers; they discriminate between them. They fall far more heavily upon retired Regular officers than upon retired Reserve officers.

Mr. Roger Jones, the former Chairman of the Civil Service Commission, put it this way to the subcommittee:

"Why * * * should we deny ourselves of their services and deny them another career * * * when they still have 20 years of useful life ahead of them? I think it makes no sense at all."

The dual compensation laws should be reviewed and amended * * *.

The above outlines the problem before this distinguished committee. Stated in the plainest of terms, it is clear that under present laws, many retired officers of the military services are entirely barred from being employed by the Federal Government in civilian positions, while others are drastically restricted in accepting such positions.

Congressman Robert L. F. Sikes, of Florida, on April 9 of last year, summed up—in a cogent and succinct manner—the need for the enact-

ment of the type of legislation this committee is considering, when he said:

Retired officers have been trapped in a sprawling jungle of restrictive measures. Federal Government employment is denied to many highly qualified people who could fill critical jobs. Many others are required to sacrifice part of their retired pay and all retired officers who venture into Government service are exposed to an incredible morass of conflicting statutes, Court of Claims rulings and Comptroller General decisions.

This situation has a twofold detrimental effect. It renders impossible employment of competent and available retired officers, highly trained and experienced in important fields of Government activity, at a time when their service would be greatly beneficial in the defense efforts. It also deprives these officers of the opportunity of employment by their Government in civilian positions to which other citizens of the United States are eligible.

Let us look first at the Dual Employment Act of 1894 (act of July 31, 1894; U.S.C. 1940 ed., title 5, sec. 62). Under that act, a retired Regular officer whose retired pay is \$2,500 per year or more, who was retired for reasons other than physical disability, may not be employed by the Federal Government, except in an office to which he has been elected or one to which he has been appointed and confirmed by the Senate. All other types of Federal civilian employment are barred to him.

This is because such a retired officer, in a technical sense, unlike other Federal retirees, continues to hold office in a military service subsequent to his retirement from active duty. The mere fact of "holding an office" brings him under the prohibition contained in the Dual Employment Act. In other words, the retired officer, not on active duty, is subject to this prohibition because of his status in retirement which is peculiar to his group.

The Dual Compensation Act of 1932 is another bar to the utilization of this reservoir of this talent and experience. Under this law, as amended, a retired officer eligible for Federal civilian employment, whose retired pay and the pay of the civilian position are both less than \$10,000 per year, is limited to the receipt of \$10,000 per year. However, if either the retired pay or the pay of the civilian position is greater than \$10,000 per year, the individual can elect to receive one pay or the other during the period of his employment. An officer retired for physical disability as the result of combat wounds or the explosion of an instrumentality of war, may receive both his retired pay and the pay of the civilian office during his employment.

There is one provision in the bill, H.R. 7381, as reported by the House Committee on Post Office and Civil Service, to which it is desired to invite the committee's particular attention; namely, section 201. This section provides, with certain exceptions, that a retired Regular officer who holds a civilian office shall receive the compensation of such office, but only the first \$2,000 of his retirement pay, plus one-half of the remainder, if any. There is no similar restriction as to retired Reserve officers. Section 201 also provides that the \$2,000 shall be increased by appropriate percentages in direct proportion to each increase in such retired pay under section 1401a(b) of title 10, United States Code, to reflect changes in the Consumer Price Index.

DUAL-COMPENSATION AND DUAL-EMPLOYMENT LAWS

It is respectfully submitted that the legislative history in connection with military pay and retirement clearly supports the proposition that Congress recognizes the fact that retired pay is earned pay.

A statement by Mr. Charles R. Hook, who was Chairman of an Advisory Committee on Service Pay, would appear to be pertinent to the matter now being discussed. The statement in question was made in 1955 when Congress was considering the bill which became the Career Incentive Act of that year. In discussing the items that enter into military pay, Mr. Hook stated that—

Total compensation should be recognized as including all elements, basic pay and allowances, special pays, reimbursements, and deferred compensation such as severance, retirement and survivor benefits. Each is an essential of a balanced and interrelated program and should be judged in relation to the whole. [Italic supplied.]

The logical conclusion to be drawn from the above is that the active duty part of the pay of a member of the uniformed services is set at a figure which takes into consideration the retired pay rights he is accruing, which he will not enjoy until he retires. In other words, he receives less active duty pay than he actually earns upon the assumption that the difference is in the nature of a deferred payment which he will receive after his retirement from active service.

Congressman Sikes analyzed the effect of the enactment of the pending bill in its present form, by stating that—

It demolishes the time-honored concept that military retired pay is earned for services rendered.

The study submitted by the Subcommittee on National Policy Machinery, previously referred to, had this to say with respect to the dual compensation laws:

These statutes purport to keep a retired officer from drawing two Government salaries. But actually, the two Government checks involved are very different. One is a salary check. The other is for retirement benefits earned over a 20- or 30-year career in the Armed Forces.

Military retired pay being earned pay—as the above demonstrates—the association submits that it is only equitable that a Regular military retiree, like a Reserve retiree, should receive the full amount of his retired pay concurrently with the salary of any Federal civilian position he may occupy.

Accordingly, it is recommended that the bill, H.R. 7381, be so amended. We are prepared to submit for the committee's consideration, language which it is believed will accomplish this purpose.

This proposal, if adopted, would establish consistent treatment among all retired officers, Regular and Reserve, which the administration's bill, as introduced (H.R. 7381) would have accomplished. The purpose of the administration's bill was to create for the future the same opportunities for employment and compensation to all retired officers who receive retired pay, without distinction, with a saving clause which would give to those already employed by the Government the right (1) to continue with their present opportunities for employment and compensation or (2) to place themselves under the new provisions, if they so elected.

Section 205 of the bill, H.R. 7381, as reported, introduces new requirements for competitive examination before employment. The

original purpose of the legislation was not to modify procedures for qualifying for employment, but to remove restrictions against the employment of retired officers, Regular and Reserve alike, with similar opportunities or restrictions which, in the wisdom of Congress, it might be considered desirable to retain. The introduction of new procedures, making more difficult the employment of retired officers, would appear to defeat the original purpose of the legislation as proposed by the administration. The association, therefore, recommends that section 205 be deleted from the bill.

Aside from the very urgent reasons for appropriate legislation in this field, which have been recited, there is the consideration that the laws are now so complicated as to confuse even lawyers in the Federal Government whose duty is to administer them. This situation has resulted in the employment of retired officers by agencies of the Government as the result of the honest belief of both the individual and the agency that the employment was not prohibited by law. In these cases, upon later discovery of violation, it has been found necessary for the Government to recover the receipt of moneys paid as salaries through a checkage of the officers' retired pay with great hardship to them and their families.

A considerable number of temporary warrant officers of the Army and Air Force, are presently faced with the necessity of repaying to the Government varying sums of money which they, conscientiously, believed they had earned in accordance with existing laws. This resulted from a ruling of the Comptroller General in which it was held that such officers, who had theretofore not been considered subject to the prohibitions of the Dual Office Act of 1894, were employed by the Government in violation of that act. To withhold their retired pay, now, in order to effect recoupment of the amount received as salary from their civilian employment would create tremendous hardship to them and their families and would constitute an unfortunate injustice.

A similar situation was created by another Comptroller General decision which held that certain Reserve officers who were retired for disability while serving in a temporary Army of the United States commission, higher than or equivalent to their Reserve rank, are subject to the dual compensation restrictions of the Economy Act of 1932.

In both of these situations implementation of the decision retroactively is being withheld pending consideration of this (or similar) proposed legislation. We believe this distinguished committee will want to grant this relief based upon the principles of equity, fair play, and good conscience.

The Retired Officers Association strongly recommends enactment of the bill H.R. 7381 as reported, amended as previously suggested.

Thank you, Mr. Chairman.

Senator YARBOROUGH. Thank you.

Admiral Denfeld, your organization includes both Reserve and Regular retired officers?

Admiral DENFELD. That is right.

Senator YARBOROUGH. And of the different armed services?

Admiral DENFELD. Yes; that is right.

Senator YARBOROUGH. Any questions, Senator Boggs?

Senator BOGGS. No questions.

Senator YARBOROUGH. Thank you, Admiral Denfeld, for your statement.

Admiral DENFELD. Thank you very much.

Senator YARBOROUGH. The next witness is Mr. John Mears, assistant director of legislative committee of the American Legion.

Mr. Mears, you may proceed.

**STATEMENT OF JOHN S. MEARS, ASSISTANT DIRECTOR, NATIONAL
LEGISLATIVE COMMISSION, THE AMERICAN LEGION**

Mr. MEARS. Mr. Chairman, members of the subcommittee, I appreciate your courtesy in affording me this opportunity to present the views of the American Legion on the proposed Dual Compensation Act of 1963. I know your time is limited, Mr. Chairman, so I shall be brief.

I believe I can best set forth our views by summarizing the testimony the American Legion gave before the House Post Office and Civil Service Committee last July. I will include comments on the provisions of the House bill as it was recently reported. The legislation in the House, H.R. 7381, was identical to S. 1912, when originally introduced.

The dual office-dual compensation laws are extremely complicated and should be simplified. We believe that any retirement pay restrictions, which may be retained, should be applied uniformly to both retired Regular and Reserve officers. In fact, the American Legion would endorse legislation to completely eliminate all such restrictions.

The legislation reported in the House would eliminate the dual office prohibition with respect to retired Regular officers, but would retain dual compensation limitations. Under present law, as a result of a series of decisions of the U.S. Court of Claims, there are practically no restrictions upon retired Reserve officers with respect to either dual office or dual compensation. The House proposal would not alter this situation. Hence, a basic discrimination between retired Regular and Reserve officers is maintained. The American Legion can perceive no valid reason why such discrimination should be retained, especially when retired Regular officers undoubtedly constitute a small fraction of the overall group with which we are concerned.

I would like to now direct your attention to the provisions of the legislation which would drastically alter the Veterans' Preference Act of 1944. I am sure you are all aware that the American Legion is unalterably opposed to any weakening of veterans' preference benefits. However, in connection with retired career officers, the American Legion voluntarily offered a compromise solution to the proposal contained in the legislation as originally introduced in the House and presently contained in S. 1912; i.e., the proposal to limit veterans' preference to those whose retirement is based on less than 6 years' service. The American Legion's proposal was to retain veterans' preference status for all eligible retired personnel, but in cases of reductions-in-force to limit the number of years counted for retention points to the number of years spent in wartime service or other periods for which eligibility is granted. This compromise would permit retention of the traditional policy of granting veterans' preference to wartime

veterans yet not endangering unduly the relative positions of career civil service employees.

The reported version of the House bill, in our opinion, complicates the entire problem further. It proposes to grant veterans' preference to all retired members with less than 20 years' active service and permit them to count all years of service for reduction-in-force purposes. However, those retired members with more than 20 years' active service would be permitted to count only wartime service, and, in addition, would be placed in the nonveteran classification.

Explaining further, a retired person with 19 years' service would retain his veterans' status and be permitted to count his total length of service, while a person with 20 years' service or more would arbitrarily be declared a nonveteran and then, in the nonveteran group, be permitted to count only his wartime service. This arbitrary formula serves no purpose but to add further discrimination and complication.

Officers can retire with a combination of active and inactive duty. Undoubtedly, inequities would arise under the proposed formula since it is geared to active service only. For example, a retired officer with 19 years' active service combined with additional inactive duty would benefit tremendously as opposed to a retired officer with 20 or more years' active service.

There is no valid reason to arbitrarily deprive a man of his veterans' preference status simply because he remained in the service for a certain length of time.

I urge you to give sincere consideration to the American Legion's proposal to permit the retention of veterans' preference status by all retired personnel who are eligible, but limit the number of years which may be counted for reduction-in-force purposes to those served during a period of war.

That concludes my prepared statement.

Under the proposed certification of the House, a man who happened to have just over 20 years' active service would only be granted his wartime service for reduction-in-force service, but in a nonactive status. Whereas a man with less than 20 years would count all of the years' service regardless of whether wartime or peacetime and we feel this further complicates the situation and it unduly discriminates against the war veteran who happens to spend a little over 20 years' active service and the one who spends a little under 20 years' active service because it is geared to active duty service and officers can retire with a combination of both.

Senator YARBOROUGH. Thank you, Mr. Mears, for your statement.

Any questions, Senator Boggs?

Senator BOGGS. No questions.

Senator YARBOROUGH. I am going to ask the staff to make a study of this discrimination in the House bill. It is very well set out in Mr. Mears' statement that distinction is made in the House bill between an officer or person who is retired with 20 years' service and one with less than 20 years' service.

Thank you.

Mr. Griner, president of the American Federation of Government Employees, will be called next.

STATEMENT OF JOHN F. GRINER, PRESIDENT, AMERICAN
FEDERATION OF GOVERNMENT EMPLOYEES

Mr. GRINER. Mr. Chairman, members of the committee, I do have a prepared statement that I will submit for the record. I would like to comment on a few items in particular with respect to this statement.

To begin with, we believe that the inequity that exists and still would exist should H.R. 738 be passed as it is now written, between retired Regular military and the Reserve, should be eliminated. We think they should be all treated alike.

Then again we are highly in favor of having the Gilpatric memorandum written into law and have it administered outside of the Department of Defense.

I would like to read into the record two letters which are not contained in my statement that I believe will explain the reasons why we would like to have this Gilpatric memorandum made into law.

One of these letters was dated February 14, 1963, and was addressed to Maj. Fred W. Carnish, U.S. Air Force, 21550 Evelyn Avenue, Torrance, Calif.:

FEBRUARY 14, 1963.

Maj. FRED W. KARNISCH,
U.S. Air Force,
Torrance, Calif.

DEAR FRED: Thank you for your letter telling me the date of your retirement. I certainly would like to have you here. The current situation is about as follows:

As a result of our reorganization and readjustment of personnel, we lost about 31 spaces including 12 high-grade spaces in the directorate. I have just declared eight people excess to our requirements, however, there are four vacancies in the O-8 to O-9 level in the propellants division and you would be most valuable as a supply requirements officer. Please let me know if you would be interested in this position.

I expect that our propellants division will continue to grow and assume greater importance and there should be opportunities for future advancement in the not too distant future. As a matter of fact, our new propellants accounting and supply procedures have just been approved by Headquarters, U.S. Air Force, and Headquarters, Air Force Logistics Command, and this will require 14 additional people to implement. Air Force Logistics Command has made a commitment that they will provide additional manpower spaces in the number of eight for the comptroller and six for the propellants division. Exactly what grade is yet to be determined.

On the negative side, a manpower hiring freeze has just been imposed in anticipation of manpower reduction for this fiscal year. I am not too concerned about this since there are certain exceptions being made to this policy. I am forwarding ours in the next day or so with the anticipation that they will grant us this exception in the propellants field.

Incidentally, some inhiring action is now being done at the Naval Supply Depot, Mechanicsburg, Pa. The positions being filled are for the Defense Supply Agency. Would you desire that I forward a copy of your SF-57 to that agency so that you can be considered for any vacancies that may exist?

I will keep you informed of any further developments and please keep me posted as to how you stand.

Sincerely,

CARLETON G. SNEAD,
Colonel, U.S. Air Force, Director of Air Force Aerospace Fuels.

Gentlemen, this is typical of what is known as the buddy system. This letter came to my office, we do not know how we got it, or where it came from. But it was an audistat copy of the original and so there is no question about the authenticity of it.

It just so happened that we were able to prove this case, but there are thousands of cases that we cannot prove.

We have found in the past, and I have a telegram here from Fort Campbell, Ky., dated June 9, 1963, that demonstrates what goes on within the military. It says:

[Telegram dated June 9, 1963, from Fort Campbell, Ky.]

February 18, 1961, SF-52 went forward from personnel requesting establishment of position GS-11 currently held by military. Position advertised July 7, 1961. Three qualified applicants applied, none selected. Job frozen until October 30, 1961, pending retirement of Maj. Donald O. Ridgeway who currently held position as military and was accepted as civilian without time limitation usually imposed.

Approximately January 7, 1962, position of disbursement officer, GS-9 advertised. No civilian applicants accepted. Job frozen 8 weeks pending retirement of CWO John McKinstery who currently held job as military. November 1, 1962, superintendent for laundry, GS-10 advertised. Four applicants with 12 years qualifying experience not accepted. Position filled by retiring Maj. John Wood, who currently held position as military supervisor.

February 28, 1963, Nina Gray Talavera, GS-2, James A. Johnson, W-4, and Walter A. Cob, W-4, received notice that their position was being abolished and that professional people might be hired. On April 7, 1963, position abolished was filled by active duty military personnel; rank, private first class and private. Pertinent facts concerning these happenings are available to be presented before a subcommittee at any time.

In the first case in this telegram it is a little unusual in that a military position was converted to a civilian position. But it shows you the manipulation that goes on in these cases.

I am not blaming the headquarters of the Army, the Air Force, or the Navy, because all they see is what is presented to them from the lower levels. Oftentimes these positions become vacant, they go through the motions of the Gilpatric memorandum, they have approval of a military who has just retired before the civilian knows that the position is going to be vacant.

We believe that if the Gilpatric memorandum was made into law, and the administration of that particular piece of legislation was placed in the hands of an agent outside of the Defense Department, where we could question some of the appointments, that we would get better results than we are getting at the present time.

I would like to call your attention to another item in my statement. As you know, the limitation is placed on H.R. 7381 that if a retired military personnel elects to accept a civilian position he may retain \$2,000 of his pension and one-half of the balance of it. In our opinion the limitation on the amount of retired pay would mean little in the case of a retired officer. It is our understanding that a retired officer, with 20 years of service, receives an annuity averaging about \$375 a month, if his rank is that of major or above. It has also been our experience that officers are not seeking civil service positions below the grade 11 and 12. It is only reasonable to assume that a retired officer who desired to enter the Federal civil service would not let a small reduction of his retired pay stand in his way, if he was to add it to his full salary of his civil service position.

Now, your enlisted man's average retired pay is about \$175 a month, and, of course, the limitation would not affect him. We point this out for the mere fact that insofar as we are concerned, and so far as

our principal problem is concerned, the limitation on pay would not allieviate that problem.

Of course, I do not have to tell you again that our principal problem is the retired military taking over a civilian position, usually in the higher grades where the civilians who have made a career of such service and have sat around for years waiting for those higher grades to come open, then when they do come open have a military move in and take it over and therefore preclude them the rights of promotion which they should normally expect.

I think, Mr. Chairman, with that illustration from this statement, together with that letter and that telegram for the record, and I want to express the appreciation of this organization for the opportunity of presenting our ideas to this committee.

Senator YARBOROUGH. Thank you, Mr. Griner.

Senator Boggs?

Senator Boggs. I want to thank Mr. Griner, too, Mr. Chairman.

I just want to ask one question. Is it your intention to imply that connivance goes on only by military personnel, sir?

Mr. GRINER. No, sir.

Senator Boggs. Thank you.

Mr. GRINER. Maybe we had a misunderstanding of the purpose of section 205, and after Mr. Macy's explanation here this morning, I rather think we did have a misunderstanding of it. But we understood that section 205 would extend the provisions of the Gilpatric memorandum beyond the Defense Department to all agencies of the Government. We are not against nor do we oppose retired military from taking civilian positions if they are in true competition with the civilian. We would like for the record to show that.

We would also like for the record to show that under no conditions would we favor taking away from any employee who is now working for the Federal Government any rights that he may have had at the time that he began such service. And, of course, H.R. 7381 makes a provision that they would retain such rights.

Senator Boggs. Thank you.

Senator YARBOROUGH. Any further questions?

Mr. GULLEDGE. No questions.

Senator YARBOROUGH. Thank you. The entire statement will be printed in the record.

(The statement is as follows:)

PREPARED STATEMENT OF JOHN F. GRINER, PRESIDENT OF THE AMERICAN
FEDERATION OF GOVERNMENT EMPLOYEES

It is the belief of the American Federation of Government Employees that there is a positive need for certain basic changes in the existing laws governing the employment of retired military persons in civilian positions in the Federal civil service.

The need is for a single, simplified dual-compensation law which will codify all existing dual-compensation and dual-employment laws into one law which will permit greater ease in interpretation and administration. The result should be a uniform policy throughout the Government service to protect career civilian employees from the employment of persons who have undue advantage because of their military service, and yet permitting, within well-defined limits, the employment of retired military persons who possess skills or experience useful to the Government.

The current statutory situation is far from satisfactory. The existence of 44 different legislative enactments dealing with dual compensation and dual employment is not conducive to equitable treatment of civilian or military personnel, nor has it resulted in an orderly or controlled procedure relating to the employment of military retirees. This bill still does not correct the discrimination between the Regular and Reserve officers. Both should be covered by this bill.

Various changes have been proposed, and these have largely been formulated into H.R. 7381 presently before the House of Representatives. When this bill was the subject of hearings by a House committee, the AFGE indicated the need for certain safeguards. One such proposal by the AFGE was designed to put an end to the so-called buddy system whereby a civilian position may be held open pending the retirement of a military person so as to select that individual for preferential appointment to the vacancy.

The AFGE proposed a new subsection incorporating the sense of the memorandum issued by Roswell L. Gilpatric, Deputy Secretary of Defense, to the Secretaries of the Departments of the Army, Navy, and Air Force, on July 5, 1961. The restrictive measures embodied in the Gilpatric memorandum have been included in H.R. 7381 as reported to the House. They are contained in section 204 which specifically stipulates that a retired member of any of the Armed Forces may be appointed to a civilian position in or under the Department of Defense within 6 months following his retirement only if (1) the proposed appointment is authorized by the Secretary and, if in the competitive civil service, approved by the Civil Service Commission; (2) the position is in a shortage category; or (3) a state of national emergency exists.

The request for such an appointment must also be accompanied by a statement which indicates that actions have been taken to assure full consideration of eligible career employees, to publicize the vacancy to give interested candidates an opportunity to apply, to write qualification requirements so as not to give advantage to the retiree, and to show that the position was not held open pending the retirement of a particular military person.

The AFGE also proposed the extension of similar safeguards to the entire Federal civil service and the requirement that prior approval of the Civil Service Commission be needed. Such extension of the policy restricting appointment to a civilian position in the Defense Department to other agencies is embodied in section 205 of this bill.

It was also our belief that exemptions to the limitation of the amount of the retired pay which may be retained by a retiree while holding a civilian position should be reported to Congress. This proposal was broadened to require in section 206 of H.R. 7381 the transmittal to Congress by the President of a report outlining operations under title II, which deals with employment of retired military persons in Federal civilian positions. The report is due on or before January 1, 1966. We still believe exemptions should be reported to Congress annually.

The reduction of retired pay was applied to enlisted as well as to all commissioned personnel, as the bill was first written. As reported to the House, the limitation was not applied to enlisted personnel or to Reserve officers. If there is to be such a restriction, the same provision should be applied to Reserve commissioned officers. They now have the advantage in that no restriction is applied now on the amount of retired pay they may receive in addition to the salary of the civilian position nor is there such a restriction presently in the bill under consideration.

The bill H.R. 7381 would repeal section 212 of the act of June 30, 1932, as amended, which limits to \$10,000 the amount of retired pay which a commissioned Regular officer may receive when combined with Government civilian salary. In its place is the formula reducing retired pay to \$2,000 plus one-half the remainder, if any.

It is my opinion that the limitation on the amount of retired pay would mean little in the case of a retired officer. It is our understanding that a retired officer, after 20 years of service, receives an annuity averaging about \$375 a month, if his rank is that of major or above. It has also been our experience that officers are not seeking civil service positions below grade 11 or 12. It is only reasonable to assume that a retired officer who desired to enter the Federal civil service would not let a small reduction of his retired pay stand in his way, if he was to add to it the full salary of his civil service position.

Exemptions would be predicated largely on disability in combat, employment during a 30-day period, or need of the individual on the basis of special or emergency circumstances.

The act of July 31, 1894, commonly known as the dual-employment or dual-office-holding statute, bars commissioned or warrant officers of the Regular uniformed services from civilian employment if their retired pay or the civilian salary to be received is \$2,500 or more per annum. Enlisted personnel and retired Reserve officers are exempt from this restriction. H.R. 7381 would exempt retired Regular officers, the only group now subject to the act of 1894.

The bill would modify veteran preference so as to lessen the advantage of the military retiree over the civilian employee whose military credit would be of shorter duration. This provision satisfies what we believe should be the paramount objective of this legislation, and that is to lessen the unfair advantage of the nondisabled retiree over civilian employees. Much of this advantage appears to be removed by section 202 of the bill which provides full veteran preference if retirement was based on disability in armed conflict, service was less than 20 years of full-time active service, or the individual was already in the civilian service on the effective date of this provision. Similar requirements are included for counting military service for civilian leave purposes.

It is gratifying to note that the bill would not deprive retirees already in civilian jobs of credit for their military service, either for reduction-in-force or leave purposes. We are emphatically opposed to depriving any employee, whether he is a civilian or a military retiree, of any benefit he presently enjoys.

The scope of the dual-compensation, dual-employment legislation, as it relates to retired military personnel, is manifested in the number of military retirees who could be involved.

Of the 385,000 on the retired roll, according to the Department of Defense, about 15 percent are 65 years of age or older. They are not considered as seeking employment. It is estimated that 70 percent of the remaining 85 percent who are employable are actively employed, for the most part in full-time positions. Of the remaining 30 percent, or roughly 100,000, it is believed that fewer than 50,000 could be considered prospectively employable if there were significant relaxation of the dual-compensation, dual-employment laws.

Currently, the rate of retirement is from 50,000 to 55,000 a year. Of this number, about 5,000 are Regular officers retiring for reasons other than disability. The remainder consist of enlisted and Reserve officer personnel, who would not be covered by this legislation.

The number of retired military persons hired in 1 year is between 1,500 and 2,000. On December 31 last, the total number of retirees in the Departments of the Army, Navy, and Air Force was 24,278. This number comprised 4,532 commissioned officers, 1,884 warrant officers, and 17,862 enlisted personnel. The 24,278 military persons employed were 2.2 percent of all the military on the retired roll.

About one-third of the military employed were in classification act positions, distributed as follows: Grades GS-1 to 4, 2,454; GS-5 through GS-10, 4,802; and GS-11 and above, 2,248.

The American Federation of Government Employees is concerned with the outcome of this legislation for the welfare of its members and the protection of the civil service system. It is our opinion that the current laws are an obstacle in the way of satisfactory operation of the promotion policy of any agency in which military retirees may be employed under existing conditions.

It would be somewhat untenable for an employee organization supporting freedom of access to the Federal civil service to seek the exclusion of all retired military personnel. What we seek is to eliminate the unfair advantage which the nondisabled military retiree now has over civilian employees.

H.R. 7381 as reported to the House removes much of the existing inequities from present law. Where exemptions are provided, little unfairness will result if they are granted with care. Much will depend on the administration of this bill if enacted in its present form.

I wish to express my thanks, Mr. Chairman, and members of this committee, for this opportunity to present the views of the AFGE on the changes which should be made in the dual-compensation, dual-employment statutes.

Senator YARBOROUGH. The next witness is Mr. Francis W. Stover, director of legislative service, Veterans of Foreign Wars.

STATEMENT OF FRANCIS W. STOVER, DIRECTOR, NATIONAL LEGISLATIVE SERVICE, VETERANS OF FOREIGN WARS OF THE UNITED STATES

Mr. STOVER. Mr. Chairman, members of the subcommittee, my name is Francis W. Stover, national legislative director of the Veterans of Foreign Wars.

Thank you very much for this opportunity to present the views of the VFW with respect to this legislation dealing with the employment of retired members of the Armed Forces in the Federal civil service.

The national position of the Veterans of Foreign Wars concerning veterans' preference provisions of the two bills before you was thoroughly considered by the delegates to our last national convention which was held in Seattle, Wash., August 25-30, 1963. It is in VFW Resolution No. 240 entitled "Maintain Veterans' Preference in Dual Compensation Law," and reads as follows:

Whereas retired military personnel are limited to jobs in the Federal service under the dual compensation laws; and

Whereas there are approximately 40 separate and distinct laws controlling dual compensation; and,

Whereas numerous Comptroller General's decisions are issued each year on positions held by retirees; and

Whereas many veterans under the dual compensation laws must reimburse the Government for salary received during their period of employment; and

Whereas our Federal Government is short of applicants with special skills in which many retired personnel qualify; and

Whereas these retired personnel are trained under Government expense; and

Whereas the 88th Congress has before it legislation to codify dual compensation and dual position laws; and

Whereas the bill as introduced excludes military retirees without disability from veterans' preference and other civil service benefits in Federal civil service employment; and

Whereas full civil service benefits might jeopardize present Federal civil service employees of which over 50 percent are veterans; and

Whereas a majority of these retirees have served during a period of war or hostilities in which a campaign badge or medal is authorized; and

Whereas denial to any group of the Veterans' Preference Act is a step to either weaken or eliminate the Veterans' Preference Act; and

Whereas the VFW has strongly opposed any weakening or elimination of the Veterans' Preference Act; Now, therefore be it

Resolved by the 64th National Convention of the Veterans of Foreign Wars of the United States, That legislation to revise the dual compensation laws shall include veterans' preference for all military retirees for time spent on active duty during periods of war, campaigns, or expeditions for which a campaign badge or medal is authorized.

The final committee draft of H.R. 7381, as reported to the House of Representatives and now pending before that body, incorporates the recommendation of this resolution; namely, that veterans' preference for all military retirees for time spent on active duty during periods of war, campaigns, or expeditions should be counted for veterans' preference purposes for any military retiree employed in the Federal civil service. The VFW is supporting this provision in H.R. 7381 and is urging its passage by the House before this session of the 88th Congress adjourns.

Respecting S. 1912, it is therefore strongly recommended that should your subcommittee and the full committee choose to report this bill

that it be amended along the lines of H.R. 7381 concerning the sections pertaining to veterans' preference for any military retiree who should enter into the Federal civil service.

One of the most cherished rights of veterans is the preference granted by the Veterans Preference Act of 1944, as amended. Who is eligible for veterans' preference? It includes all honorably separated ex-service men and women who have served on active duty in any branch of the Armed Forces of the United States in wartime, or in peacetime campaigns or expeditions for which a campaign badge or service medal has been authorized. Veterans' preference is also extended to persons who have served in either wartime or peacetime and have a service-connected disability or are receiving compensation, disability retirement benefits, or pension under the laws administered by the Veterans' Administration or the Defense Department. Additionally, certain wives, widows, and mothers are also included.

The Veterans' Preference Act has 20 sections, with the most important being section 12. This is the section which involves retention of personnel when a reduction in force in the Government becomes a necessity. Under this section, four factors are used in determining the order of separating competing employees.

These are tenure of employment, veterans' preference, length of service, and efficiency ratings. In computing length of service, by the way, the time spent in active military service is credited as part of the total Federal service. Preference employees are retained under the provisions of section 12, in preference to all other competing employees with the same or lesser efficiency rating.

Please note then that section 12 first of all places a veterans' preference employee in a higher category than nonpreference employees, providing a superior status with a competing employee in a reduction in force action. Secondly, section 12 also bestows upon a veterans' preference employee the right to count the time spent in active military service in computing the length of service. For this purpose, this advantage provides more points in determining the order in which a reduction in force will be effected. For veterans with long service, this provision looms as extremely important.

The first law granting preference in reduction in force in the Federal service was in 1876. Down through the years there have been innumerable instances, both legislative and executive, where veterans' preference has been provided to veterans and military retirees who have served our Nation during war periods. The Veterans Preference Act of 1944 finally consolidated and brought together all of the laws and Executive orders into one law. Generally, it did not grant more veterans' preference, but the Congress simply ratified all of the administrative orders and executive pronouncements which until this was done did not have the full force and effect of law. This veterans' program has been a highly successful one. The cost of administering it has been negligible.

The Veterans of Foreign Wars has no official position concerning other sections of the bill, except we endorse the provisions of the bill which would provide relief to some retirees in the Federal civil service from the effects of a recent Comptroller General's decision which has held them to be in violation of the present dual employment, dual compensation statutes. These cases, by the way, are a further

reason why these laws should be made uniform and more understandable for all concerned.

There is another reason the VFW strongly objects to the elimination of veterans' preference with respect to military retirees who work for the Federal Government in a civilian capacity. To do this would be ignoring the fact that most of these retirees are veterans of wartime service who participated in the great battles and engagements of World War II and the Korean conflict and some with additional campaign or expeditionary service for which a medal was authorized.

This type of service has been recognized for veterans' preference purposes for almost 100 years—since the end of the Civil War. It is a part of our body of laws and social fabric and the VFW strongly recommends that it be continued in this dual compensation act which you are now considering.

The VFW, however, is also cognizant of the fact that the Congress in 1944 probably did not have in mind the situation with which we are confronted today. Few would have predicted a cold war, which is beginning to appear to be permanent. Even fewer would have predicted the Korean conflict. The underlying purpose of veterans' preference is to provide the former servicemen some kind of assistance in being readjusted to civilian life.

Additionally, it gives him assurance that the sacrifice he has made will not be forgotten if and when a reduction in force should be necessary. It is a kind of badge of honor.

In conclusion, the VFW recommends S. 1912 be amended to correspond to the version of H.R. 7381 reported to the House as follows:

Add to section 12 of the Veterans' Preference Act for reduction-in-force purposes to permit an employee who is receiving military retired pay to (1) credit all of his military service if he is retired for disability incurred in armed conflict or caused by an instrumentality of war during a period of war; (2) count or credit only military service performed during any war or in any campaign or expedition for which a campaign badge had been authorized; and (3) count all service if the employee does not have 20 or more years of active military services.

The VFW shares the concern of many that H.R. 7381 does not provide full veterans' preference for military retirees with 20 or more years active military service. Our position was not lightly arrived at, and reflects deep concern on the part of the delegates to our last national convention when they recommended that time spent on active duty during wartime should be counted only for reduced-in-force purposes for retired career personnel who should become Federal civil service employees. We realize this is a departure from our previous "all or nothing" concept there should be no laws enacted to diminish veterans' preference rights as they now exist. H.R. 7381 does not grant full reduction-in-force rights for military retirees with 20 years or more active duty service. The VFW does not like this provision. We would rather have full rights for these veterans. World War II has been over almost 20 years and I am sure our resolution includes the concern of many of our members who are Federal civil employees who have inquired if their veteran status would be impaired should the dual compensation statutes be

repealed. H.R. 7381 has incorporated our views and I just want the record to show some of our reasons for arriving at what I like to call "a statesmanlike position."

This, then in the opinion of the VFW is a compromise, of course, and we are not completely happy with it. We realize one has to make some kind of a compromise along the way. We cannot count all of the military service, for these veterans. The veteran preference provisions in H.R. 7381 were recommended by the VFW and it is strongly urged they be retained in that bill, or if you report S. 1912, that they be incorporated in that bill.

That, Mr. Chairman, is the VFW's recommendation, and I just heard the bell ring, and so I'll wind up my remarks by saying thank you very much for this opportunity to be here this morning.

Senator YARBOROUGH. Thank you, Mr. Stover. That is a very cogent statement about your position and also some very beneficial and statistical information that will be of help to us and the staff in considering this legislation or the effect of the legislation.

Senator Boggs, any questions?

Senator Boggs. No questions.

Senator YARBOROUGH. Thank you.

Gentlemen, the time has come at which the hearing was to have been recessed. There are a number of witnesses still to be heard. I will hear one more and then recess.

The next witness is Mr. R. A. Means, chairman and national secretary of the permanent legislative service committee of the Fleet Reserve Association.

STATEMENT OF ROBERT A. MEANS, NATIONAL SECRETARY, FLEET RESERVE ASSOCIATION

Mr. MEANS. I am Robert A. Means, national secretary of the Fleet Reserve Association. The Fleet Reserve Association is made up of more than 53,000 career enlisted personnel of the Navy and Marine Corps, including active and retired men plus those in a retainer status. We welcome the opportunity to appear before this committee and express the views of the members of our association, the voice of career enlisted personnel of the U.S. Navy and Marine Corps.

Since the House has not yet passed H.R. 7381, which was approved by its Civil Service Committee, we understand these hearings are on S. 1912, the Senate version of the bill originally submitted by the administration. However, our comments today will be concerned with H.R. 7381 in its present form, which we are sure this committee is familiar with and will have to pass on eventually. We opposed S. 1912. We consider H.R. 7381 a great improvement over the proposal of the administration and many of its provisions are acceptable in their present form. We do feel, nevertheless, that the bill requires amending to avoid harmful and unjustified effect on the retired enlisted man. We certainly agree that the present statutes on dual compensation and dual employment, with hundreds of Comptroller General decisions, are archaic and take the wisdom of Solomon to interpret. It is imperative that the Congress repeal the present statutes and enact legislation more in keeping with modern times.

In the House committee report on the bill (Rept. 890) it is pointed out, among other purposes, that this legislation is:

To provide reasonably uniform and fair treatment for retired military personnel with respect to their employment in Federal civilian positions and to provide appropriate safeguards so that Federal civilian employment of retired military personnel will not grant such personnel unfair advantage over civilian employees or unduly hamper career opportunities for civilian employees.

This is a commendable goal. But it will be violated in spirit if discriminatory provisions are adopted which place the career enlisted man at a disadvantage in obtaining a position with civil service simply because he has already served his country. Let us not enact legislation which will penalize a career enlisted man by virtue of the fact that he chose the honorable profession of the military and has earned a meager retirement. Gentlemen, the career enlisted men retiring today are highly trained and fully qualified personnel that the U.S. Government must retain in positions where their services can be utilized. America in many instances has spent many thousands of dollars training these career enlisted personnel and their service in Government is to the best interest of the public; it's a return on the people's investment.

The Fleet Reserve Association has always taken the position that retired pay is earned pay. Thus, it is difficult for us to understand why anyone should have to surrender a portion of that earned pay in order to obtain other type of employment with the Government. Section 201(a) of the bill would set a limit of \$2,000 plus 50 percent of the remainder of the retired pay of Regular officers taking civil service jobs. While this is an improvement under the present hopelessly outdated law, it will still fall short of one of the chief purposes of the bill as stated in House Report 890: that of "obtaining the best qualified people available for hard-to-fill civilian positions." The "best qualified" officers are likely to command the best salaries outside Government and Government is not going to compete successfully for their services if it begins by limiting their pay. It is apparent that one of the adverse effects of dual compensation laws has been to stifle initiative and any incentive to advance. The military retiree, accepting a position which places him at the maximum limitation has little reason to strive for advancement when the additional compensation is denied him.

If the committee feels some such dollar limitation is vital, we would at least hope the dollar amount would be raised to a more realistic figure. The \$2,000 figure, the source of which has never been adequately explained by the executive department, was set before the recent military pay bill. Some increase in line with that bill and some provision for upward adjustments whenever there are future military pay raises--would seem to be more realistic than the present wording of the bill.

We would remind the subcommittee that the principal reason for the bill was to allow the employment of retired officers whose service could be valuable to the Government and to clarify confusing laws. We would remind the subcommittee also that the principal resistance to the bill, and similar bills like it over the years, has come from civil service employee groups which feared officers getting unfair advantage in taking over professional or administrator jobs in civil service. The

objections raised were not because of enlisted men and there has been no great complaint because of enlisted men working for civil service. The number so working is comparatively small in relation to total civil service strength. Their performance has been excellent. Many are civil service union members themselves.

With that in mind, I would now like to discuss four sections of the bill which gratuitously place restrictions on enlisted men in serving more, or entering civil service.

Section 202 would limit veterans preference in reduction-in-force purposes in the future to wartime or campaign service. While our members would naturally prefer to maintain the status quo, we accept this change as a realistic restriction. We would hope, however, that the subcommittee will study the matter closely to avoid new inequities and assure itself the section is workable before passed. The cold war might entail situations that throw the demilitarized zone in Korea, where today they are getting shot at, into a category of no veterans preference due to no specific campaign bar being authorized. On the other hand men who serve in this country for a year during war receive preference for that service.

Section 203 limits sick and annual leave credit, and—

Senator YARBOROUGH. That bell indicates a vote on the Senate floor that will force us to recess.

Gentlemen, the hearing will recess until 2 o'clock. We have other commitments, and I am hopeful that either Senator Boggs or I would be here, and you may complete your statement at that time, Mr. Means.

The hearing is recessed until 2 o'clock this afternoon. All of the witnesses who were not heard this morning are requested to come back this afternoon.

(Whereupon, at 12 noon, the subcommittee recessed until 2 p.m., the same day.)

AFTERNOON SESSION

(The committee reconvened at 2 p.m., Senator Ralph W. Yarborough presiding.)

Senator YARBOROUGH. The subcommittee will come to order, and Mr. Means, you may continue with your statement.

Mr. MEANS. Thank you kindly, sir.

I will start right in where I left off, Mr. Chairman.

Section 203 limits sick and annual leave credit and, while a loss of presently enjoyed benefits to the career enlisted man, is considered a reasonable provision.

The next two sections are by no means reasonable, or justified.

Section 204 is most restrictive and will do much to eliminate the possibility of a career enlisted man gaining employment in civil service. On one hand the contention is set forth that present laws are a waste of manpower badly needed in the Federal service and that carefully selected, highly trained, broadly experienced, loyal, and dedicated American citizens are not available as a source of skilled manpower. And then, to open up this manpower source so that the career Regular officer might become available, we are going to close the door on another source of highly trained manpower—the retired career enlisted man.

To place a 6-month limitation on employment would virtually force the enlisted man to seek employment elsewhere. An enlisted man

cannot live—for even 6 months—on his retired pay. The average enlisted retired pay is \$175 a month. The retiring man is usually at a point of heavy family expenses, with older children in high school or college. At his advanced age he wants to find a job and keep it. He doesn't want to move into a temporary position until his waiting period is up.

This section would penalize him senselessly, though it was designed to prevent abuses by officers, not enlisted men.

We frequently hear scare stories about the so-called buddy system, about one serviceman setting aside a civilian job for another. We suggest this subcommittee investigate and see if you can find specific examples of that. We think you'll have great difficulty. Remember that a retired enlisted man, like any other civil servant, must meet the qualifications for his job just like any other employee. If somebody is allowed to put an unqualified military man in a civil service job it means a civilian personnel director is not doing his job. The Gilpatric memorandum adequately curtailed possible abuses here. If the subcommittee wishes to put the Gilpatric memorandum into law, limiting employment, at last duty station for 6 months following retirement we would not stringently object. The extension of this, through the Defense Department, is unfair and unnecessary. The section, incidentally, is carelessly drafted. Notice that it applies to the Army, Navy, and Air Force but not to the Coast Guard. For some reason, Navy men are assumed to have buddies throughout the Army and Air Force but Coast Guard men aren't. We urge this section be eliminated from the bill.

If it is considered necessary to prevent abuses at the top administrative levels, we ask that enlisted men be exempt from it.

Section 205 appears to us to be undesirable from the standpoint of the civil service personnel administrator as much as from the individual. It is unworkable and confusing and appears to be a hastily drafted attempt to throw new barriers in the path of military retirees seeking civil service employment. It is not clear how extensive the public notice has to be or why a 30-day wait is involved. It would undoubtedly cause serious delays in filling important jobs. Suppose, for example, an exam is announced, application taken, and in the meantime a fully qualified civilian with civil service status shows up and wants the job? Does he needlessly go through new exams? Is the exam called off, with a lot of wasted effort on the part of the Government and unfair treatment to the military retirees and civilians alike who have applied?

The section is completely unnecessary since retired men applying for civil service jobs have to meet the same qualifications as other applicants anyway. They must be fully qualified to do the job. If a better qualified civilian applies we would expect him to be hired. If the military man is better qualified it is to the advantage of all taxpayers to hire him.

We strongly urge this provision be eliminated. It makes the bill unacceptable. The way to revise archaic and confusing laws is not with new chaos.

The FRA is encouraged to seek a saving clause that exempts presently employed retirees from the provisions of the bill. From the

detrimental effects of recent military personnel actions, we are aware of the harm to morale that comes from changing horses in midstream.

In summary: The Fleet Reserve Association believes that new legislation is a must. We do not believe to forbid the career enlisted man employment with civil service for 180 days after his retirement is in the best interest of the public—but to the contrary is quite detrimental to the public interest.

I want to thank you for allowing me to present the views of the career enlisted veterans. It has been a privilege for me to appear before this committee, especially so, as I know you will give our suggestions careful consideration.

This morning one of the gentlemen who testified made a statement that only 14 percent of the career enlisted men would be involved if a monetary ceiling was placed upon them. We would like to point out that this 14 percent would be those who are best qualified; in other words, those in the E-7, E-8, and E-9 grades.

We also noted this morning in testimony that Mr. Griner pointed out where officers could possibly influence new jobs, but we were happy to note he did not point it out insofar as enlisted personnel.

Thank you, Mr. Chairman, and Senator Boggs.

Senator YARBOROUGH. Thank you, Mr. Means. The point you make in discussing section 202, you point out that the men in the demilitarized zone in Korea getting shot at today, put in the category of nonveterans preference, because there is no specific campaign bar, and in that connection you point out that many men served in this country during World War II who would receive preference for the service and ask that that inequity be studied. I direct the staff to assemble data on that before the subcommittee passes on it.

I have often pointed out the same matter in support of S. 5 now pending on the floor of the Senate. Out of millions of men in service during World War II, there were millions who never went overseas, but in this cold war period there are many men exposed to dangers of combat daily and others to great exposure in deserts or arctic wastes where the men are stationed and available for surprise attacks.

Any questions?

Senator Boggs. No questions.

Senator YARBOROUGH. Does the staff have any questions?

Mr. GULLEDGE. No questions.

Mr. MEANS. Gentlemen, I was requested to ask the chairman to submit a statement by John E. Erickson, national legislative director of the Veterans of World War I, into the record. I was asked to deliver it to you and I will submit it.

Senator YARBOROUGH. If there are no objections, the statement by the representatives of the Veterans of World War I will be incorporated in the record and become a part of the record.

Mr. MEANS. During the recess, sir, I also received a call from Mr. Rein of the Association of Regular Army Sergeants, and he requested that I respectfully request of the chairman that his statement be made a part of the record. He has already submitted that.

Senator YARBOROUGH. Yes, the statement by William M. Rein, national executive secretary of the Association of Regular Army Sergeants, will be printed in full in the record.

(The statements follow :)

STATEMENT OF JOHN E. ERICKSON, NATIONAL LEGISLATIVE DIRECTOR, VETERANS
OF WORLD WAR I, U.S.A., INC.

The Veterans of World War I welcome the opportunity to submit a statement to this distinguished committee.

Since the Civil Service Committee of the House has approved of H.R. 7381 which is yet to be passed by the House, we feel that this bill is a considerable improvement over S. 1912 in its provisions regarding the matter of dual compensation and dual employment, and we think that the present status with so many Comptroller General positions are archaic and takes the wisdom of several Philadelphia lawyers to interpret.

We do not believe that legislation should be enacted which will penalize a career enlisted man because he chose an honorable profession in the service of his country, and we are of the opinion that a career enlisted man upon retiring from the service of his country has earned and is fully entitled to the retirement pay which he has earned over the years of service, and that upon his retirement, he has become a civilian and should have the same treatment as civilians have in regard to entering Government civil service.

We are unalterably opposed to the Government's setting a limitation on the income of the retired career serviceman since this violates both in fact and in spirit, the promise of opportunities to young men of this country to enter the career military service and it discriminates in fact and in principle against the man who has served his country honorably as against the ordinary civilian who may have income from many sources, and yet is not questioned in regard to this income when accepted for Government civil service employment.

We fail to understand nor has it ever been adequately explained how the executive department arrives at the \$2,000 figure under section 201(a) of the bill which would set a limit of \$2,000 plus 50 percent of the remainder of the retired officers taking civil service jobs. Certainly this thing serves to stifle initiative and any incentive to advance in civil service on the part of those who have served their country. Rather, it would serve as a deterrent of highly qualified military retirees making themselves available for future Government service.

To place a 6-month limitation on employment of retired career enlisted men will force them to seek employment elsewhere. It is certainly well known to anyone that the enlisted retirement pay of \$175 per month for retired enlisted personnel makes it virtually impossible for them to even exist on this amount, particularly with family expenses, children in school, and possibly doctor and medical services as well.

That the military retiree must meet the same qualifications and take the same civil service examinations as anyone else certainly is a guarantee against incompetent military retirees getting any preference over anyone else.

The Veterans of World War I believe that new legislation should be enacted. We do not believe to forbid career enlisted men employment from civil service for 180 days after retirement is in the best interest of the public, and we think it highly unfair and inadvisable as far as the military retiree is concerned. We believe this dignified committee should certainly take into consideration the fact that men who had served their country over a period of time in the honorable profession of defending this Nation are the highest type of loyal and patriotic Americans and that no restrictive provisions of laws should be enacted which would place them at a disadvantage in seeking Government employment under civil service following retirement.

Therefore, we advise this committee that we are opposed to S. 1912 as being too restrictive and too unfair and it singles out a certain type of citizen and places them at unfair disadvantage against another type of citizen who has very little, if any service with the Armed Forces.

We appreciate the opportunity to present the views of the Veterans of World War I of the U.S.A., Inc., and we are sure our suggestions will receive your careful consideration.

STATEMENT OF WILLIAM M. REIN, MASTER SERGEANT, U.S. ARMY, RETIRED,
LEGISLATIVE REPRESENTATIVE, ASSOCIATION OF REGULAR ARMY SERGEANTS

Mr. Chairman and members of the subcommittee. I am M. Sgt. William M. Rein, U.S. Army, retired, national legislative representative of the Association of Regular Army Sergeants, an organization of career Army men, active and retired.

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The views I am expressing today are the official views of the Association of Regular Army Sergeants. We appreciate this opportunity to testify on H.R. 7381.

In testifying on the administration proposal on the dual-compensation and dual-employment laws before the House Civil Service Committee, I said, "The dual-employment and dual-compensation laws are conflicting and confusing, and ARAS supports the supposition that they should be overhauled. We submit, however, that the way to clarify confusing laws is not to extend them to groups who have never been subject to them in the past, groups for whom no justification has been advanced that would warrant inclusion under the dual-compensation laws."

We think H.R. 7381 as passed by the House is a vast improvement over the original administration proposal, which we opposed in total. The administration bill would have brought enlisted men under the income limitation of the dual-compensation laws for the first time and we were pleased that the House eliminated that provision from the bill. We still believe that dual-job and dual-pay laws should be overhauled and the present bill has done much to recommend it. We still feel that some perfecting work is required, however.

It should be kept in mind that retired enlisted men make up only a very small percentage of the civil service corps. Their service has been outstanding and there is no record of them abusing the privileges gained because of their earlier service in a military capacity. While they do have veterans preference rights they do not have any advantage over noncareer veterans in civil service though they generally have many more years of service.

The new section 205 of the bill, added by the House Civil Service Committee at the last minute is we believe, unworkable and unnecessary and appears to be a punitive attempt to deny employment to military men. Military retirees have to be qualified for their jobs the same as any other civil service employee and it is clearly unnecessary to go through this procedure which would involve unacceptable delays before filling any job.

We recommend section 205 be eliminated from the bill.

The bill limits veterans preference for reduction-in-force purposes in the future to wartime service. While this takes away some advantages the retired enlisted man has now, we feel it is reasonable to legislate that men should not get veterans preference for peacetime service. We feel, however, that the committee should clarify what veterans preference is available for peacetime service for those who do not earn military retirement. Is it fair to deny preference to one employee and give it to another, merely because of the difference in the length of their service?

The same question is equally pertinent in relation to the section of the bill that would deny sick and annual leave credit for peacetime service. Is it going to apply equally for all, or just to the man who served his country long enough to earn retirement?

In our testimony before the House, we said, in relation to giving retired officers an unfair advantage in supervisory jobs, "Setting a minimum time period during which a retired man could not work in the office or section where he last served on active duty would, we feel, go a long way toward preventing possible abuses in this area."

Unfortunately, in putting in a 6-month ban on being hired in the bill, the House made it all servicewide and made it applicable to enlisted men as well as officers. We would remind the committee that the problem involved was the problem of officers taking over top supervisory positions that they had control over while still in uniform. There was no problem with enlisted men. The percentage of enlisted men in civil service is so small one could not reasonably say they are denying civilians career opportunities and certainly they are not denying anyone promotion opportunities, since the enlisted men, generally, are in the lower grades. This looks like another unnecessary, punitive attempt to discourage enlisted men from seeking civil service employment. If the section is applied to enlisted men, making it applicable to his last office or even last base assignment is sufficient. Also, we don't see why this should apply to members of the Army, Navy, and Air Force but not to members of the Coast Guard. As now drafted, the bill exempts a retired Coast Guardsman from the 6-month provision.

ARAS strongly believes the dual-employment and dual-compensation laws need overhauling and the bill, while not perfect, is an improvement over confusing present laws. ARAS will be available to help the committee further in any way that it can.

Thank you for this opportunity to present this statement.

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Senator YARBOROUGH. Col. John Carlton, executive director, Reserve Officers Association of the United States.

**STATEMENT OF COL. JOHN T. CARLTON, EXECUTIVE DIRECTOR,
RESERVE OFFICERS ASSOCIATION OF THE UNITED STATES**

Colonel CARLTON. Thank you, Mr. Chairman, I appreciate very much the opportunity to come before this committee.

Let me emphasize, as you realize, Mr. Chairman, that the ROA is the only association of officers of all the military services, all the uniformed services, both Regular, Reserve, Active, and retired. We are the only association.

Now, rather than making a presentation myself, I would like to call on Col. Arthur Brackett. He is the officer on our national headquarters staff who has been assigned to follow this bill through day by day, hour by hour, both in the House and Senate hearings.

Colonel Brackett, I would like to point out, has only a couple of years ago completed 22 years' active duty, most of which was in personnel legislation and we consider him one of the outstanding experts, both active duty and those retired, on this subject, and so if the committee would indulge Colonel Brackett very briefly, he will summarize our statement.

Senator YARBOROUGH. Colonel Brackett, we will be glad to hear from you and we know your past experience in this field will help us in this summary. I know from the communications I receive from your group you gentlemen are really well informed on Reserve matters, on military and Reserve pay and retired pay.

Thank you.

**STATEMENT OF COL. ARTHUR A. BRACKETT, RESERVE OFFICERS
ASSOCIATION OF THE UNITED STATES**

Colonel BRACKETT. Thank you, Mr. Chairman, I will summarize very quickly. We know you are aware of the urgency of this bill because of the two relief provisions to save the several hundred retired warrant officers and Reserve officers retired for disability by the adverse Comptroller General's decision and we are grateful to you for scheduling these hearings at this time.

We believe that H.R. 7381, reported by the House Post Office and Civil Service Committee is a good bill, a good bill that will satisfy the greatest number of interested groups. We believe this except for one particular section, that is 205, of that bill. We agree with the testimony of the Civil Service Commission witnesses that the inclusion of this particular section in the bill will completely wipe out the good of the rest of the bill. Therefore, we feel it is imperative that it be removed from any bill that this committee might report.

We also are opposed to the inclusion of section 204, the so-called Gilpatrick amendment, for virtually the same reasons as the Civil Service Commission, that it is not required and that current constructions are working.

Our statement, which we respectfully submit for the record, covers these points in more detail.

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May I summarize or conclude then by saying that we respectfully recommend your committee consider favorable action on H.R. 7381 as reported by the House Post Office and Civil Service Committee, minus the provisions contained in sections 204 and 205. It is especially important that section 205 be eliminated as it would nullify the effectiveness of an otherwise effective bill.

Thank you, Mr. Chairman.

Senator YARBOROUGH. Thank you. Colonel Carlton, your statement will be printed in full in the record.

(The statement follows:)

STATEMENT OF COL. JOHN T. CARLTON, EXECUTIVE DIRECTOR, RESERVE OFFICERS' ASSOCIATION OF THE UNITED STATES

Mr. chairman and members of the committee, we are grateful for the opportunity to present our views to you during these hearings on S. 1912 and allied bills designed to simplify, modernize, and consolidate laws relating to dual employment and dual compensation.

I am Col. John T. Carlton, executive director of this association.

Since it is not often our privilege to appear before you, I would like to take a few brief lines to tell you about our organization.

The Reserve Officers' Association was established in 1922 under the auspices and encouragement of Gen. John J. Pershing in order to keep alive in the communities throughout our country the principle that our security depends on a strong Defense Establishment. We have continued to adhere to and advance these principles since our inception, and in 1950 were chartered by the Congress to support a military policy for the United States that will provide adequate national security and to promote the development and execution thereof.

Ours is the only association that represents officers of all services, both active and retired. Our membership consists of virtually all the leaders of our Reserve elements in all of the Armed Forces who are also, of course, civilian leaders in their communities.

Before commenting on the bill under consideration by this committee, I would like to emphasize that our mandate in connection with this problem is clear, simple, and explicit. It is Resolution No. 7, adopted by our national council on March 1, 1963.

I would like to quote the pertinent portions of this resolution which reads as follows:

"Whereas the entire concept embodied in these laws is outmoded, outdated, unfair both to retirees and to the Government which has continuing need of the experienced and competent services of the retired military personnel; and

"Whereas it is unjust and inequitable that retired military personnel should be either precluded from Federal employment or required to forgo any portion of their retired military pay by reason of such employment; and

"Whereas it is a fundamental principle embodied in official statements of the Department of Defense, in congressional enactments, and in court decisions that retired military pay is in fact deferred compensation for services previously rendered: Now therefore be it

Resolved, That the Reserve Officers Association of the United States recommends the complete abolition of existing restrictions on the Federal employment of retired military personnel as embodied in 'dual compensation' and 'dual employment' statutes."

Our association has taken this stand because of two simple principles. The first is the obvious and great benefit to our Government to be able to hire the best qualified individual without restriction to fill its vacant positions. The second principle is that of equity. Since retired pay has long been held to be "earned pay," a retired military man should be entitled to this pay wherever his pursuits may carry him after retirement. This pay is as much his as if he had earned it in business life. To do otherwise would only penalize a man for his military service.

Of course, we strongly support the provisions contained in sections 102 (f) and (g) of S. 1912 (secs. 201 (g) and (h) of H.R. 7381, Union Calendar No. 368) that will overcome the adverse decisions of the Comptroller General in relation

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to Reserve officers retired for physical disability and to temporary warrant officers. These two provisions, alone, make this bill one of great urgency.

We testified to this effect and on other matters before the House Post Office and Civil Service Committee on H.R. 7381 which, as introduced in the House, was identical to S. 1912.

While the purpose as stated in S. 1912 is a worthy one, neither this bill nor H.R. 7381, as introduced, would accomplish those purposes. It is evident that the House committee came to the same conclusion, because after exhaustive hearings and study that committee completely rewrote a major portion of the bill.

We believe the House committee did a remarkable job in reconstructing the bill to provide farsighted legislation that will stand the test of time. Considering the vast complications and intense feelings involved, we believe—with two exceptions which we note below—that H.R. 7381 (Union Calendar No. 368) represents a far better solution than contained in S. 1912 and we would recommend it favorable consideration by your committee.

There are two sections of the bill, as reported by the House committee which we find objectionable. First and foremost is the provision contained in section 205 thereof. Its provisions, which would require a new examination each time there was an applicant who is a retired member of the military, seem innocuous at first look but a deeper analysis reveals it would establish an administrative nightmare. As witnesses for the Civil Service Commission have pointed out, either the appointment process for civil service positions would completely founder, or, in order to avoid this condition, virtually all retired military personnel would be barred from consideration for any position in the Government service.

It is our understanding that this section was adopted by the House committee in the last few moments of their deliberations on the bill at which time there was little or no opportunity to study the effects of this amendment.

We strongly believe, then, that it is imperative that this provision be eliminated from any bill reported by your committee.

The second portion of the House bill which troubles us is that contained in section 204. This provision is not contained in S. 1912 nor was it included in H.R. 7381 as originally introduced.

This section is an attempt to include in law and broaden in scope the provisions of the so-called Gilpatric memorandum, a memorandum to the service Secretaries from the Deputy Secretary of Defense of July 5, 1961. The purpose of this memorandum was to guard against certain instances, resulting from a few isolated complaints, in which it had been purported that retiring military personnel had used their prior military relationships to gain unfair advantage in securing a civil service position. The gist of the memorandum required that certain procedures be established to provide a clear indication of competition in those cases where a retired military individual is hired on the same installation from which he was retired within 6 months after the date of his retirement. The House committee was written the provisions of this memorandum into their bill and has made it further restrictive by making them apply to any case of a retired person's application for employment in any position in the Department of Defense.

We think that this provision is too restrictive in that it will make it most difficult for the Defense Department to attract highly skilled individuals if they must wait 6 months to be employed. We believe, also, that the few instances of alleged influence have been blown up all out of proportion. The Gilpatric memorandum is working now, according to Civil Service Commission testimony, and the need for putting into rigid statute a successful and flexible administrative regulation seems dubious. We deny the allegation of widespread abusive use of influence and feel these allegations unjustifiably impugn the character of our military personnel. We thus recommend that no provisions resembling section 204 of H.R. 7381 (Union Calendar 368) be included in the bill your committee reports.

In conclusion, then, we respectfully recommend your committee consider favorable action on H.R. 7381 as reported by the House Post Office and Civil Service Committee minus the provisions contained in sections 204 and 205. It is especially important that section 205 be eliminated as it would nullify the effectiveness of an otherwise excellent bill.

Senator YARBOROUGH. Thank you gentlemen for a very fine statement.

Senator Boggs.

Senator BOGGS. No questions.

Senator YARBOROUGH. Any questions by the members of the staff?

Colonel CARLTON. Thank you very much.

Senator YARBOROUGH. We will go off the record.

(Discussion off the record.)

Senator YARBOROUGH. On the record.

The next witness is Col. Jackson Rambeau, retired, director of military relations of the Air Force Association.

**STATEMENT OF COL. JACKSON V. RAMBEAU, U.S. AIR FORCE
(RETIRED), DIRECTOR OF MILITARY RELATIONS, AIR FORCE
ASSOCIATION**

Colonel RAMBEAU. Thank you, Mr. Chairman. I am going to try to outdo everybody else on saving time. I will just take the last page of my statement, in the summary.

We think the House did an excellent job of working this thing over, considering the diverse testimony that they got on the bill. We come up today supporting basically the bill that came out of that full committee in the House but still recommending three changes. We think the Regular is still being discriminated against and we think the Senate ought to do something about this.

Two, we think that you should eliminate or at least restrict the application of section 204 to something less than DOD-wide.

The reason I say that, this is a million of the two and a half million civil service jobs in this country. It seems ridiculous to think that a Navy enlisted man retiring in San Diego, that would go to San Antonio to get a job as a mechanic could get it through undue influence.

And the third point we completely agree with the Chairman of the Civil Service Commission, Mr. Macy, in his strong objection to section 205.

If I might, I would like to submit my full statement for the record.

Senator YARBOROUGH. Your entire statement, Colonel, will be printed in the record.

Senator YARBOROUGH. Senator Boggs.

Senator BOGGS. No questions.

Senator YARBOROUGH. Any questions of the staff?

I have been through your statement, Colonel, while you were talking, but I give you credit for being the first witness who condensed it so that I could not read it all before you finished.

Colonel RAMBEAU. There are some poetic lines in there, Senator.

Senator YARBOROUGH. You have some good statistics and material that I am reading, but I notice it starts off with that first line with your 78,000 members, and it seems to me you were kind of bragging a little compared with the Fleet Reserve Association and the others who start off with 53,000 or 58,000.

Colonel RAMBEAU. Well, we are still growing.

Senator YARBOROUGH. Congratulations on the work you have done in building your membership.

Any questions?

Thank you.

Colonel RAMBEAU. Thank you, sir.

(The prepared statement is as follows:)

STATEMENT OF COL. JACKSON V. RAMBEAU, U.S. AIR FORCE (RETIRED), DIRECTOR
OF MILITARY RELATIONS, AIR FORCE ASSOCIATION

Mr. Chairman and members of the subcommittee, the 78,000 members of the Air Force Association include officers and airmen, Regular and Reserve, civil servants, veterans and nonveterans, active duty personnel and inactive duty reservists, retirees, members of labor unions and management. Thereby, we feel we represent every side of this problem, and there are many.

We support the announced intention of the proposed bills to simplify, modernize, and consolidate the so-called dual employment and dual compensation laws.

Our members have worked diligently for the last 2 years to get Congress to clear up the chaos and confusion created by a morass of antiquated dual compensation laws and tortuous decisions on the subject by the Comptroller General.

We remind the committee that military service is the only occupational field from which large numbers of people in their forties are retired and forced into a mandatory second career. The cost to the taxpayer of training military replacements to make up the high loss rate is fantastic. In the Air Force alone it runs into billions of dollars yearly, and ties up 17 percent of all uniformed personnel. The experience of the other services is similar. We plead in behalf of the taxpayer that the Government make a reasonable effort to recoup some of this vast investment in training.

We congratulate you on taking expeditious action on this bill in order to save the hundreds of AUS officers and warrant officers from the recent weird decisions of the Comptroller General, which so adversely affected them.

I am sure the 872 retired warrant officers due to be fired from their civil service jobs on January 3, if relief is not provided, are most appreciative to you for this consideration.

We would like to cooperate in this business of expediting action by making a very short statement today rather than a complete sectional analysis of the House bill.

We believe the House committee did a masterful job of bill drafting after extensive and thorough hearings from many divergent groups. We applaud their decision to leave enlisted personnel and Reserve officers out of the obnoxious pay formula. While there are some sections in the House bill we think are discriminatory and unworkable, it is with few exceptions a much fairer bill to all concerned than the bill sponsored by the administration. That bill was flown under the false colors of trying to get critical skilled military retirees into civil service to fill the needs of the Government. After close examination we could not find a single section of that bill which would have achieved this stated purpose. The bill spoke of equity of treatment for all retirees, but it proposed to accomplish this by imposing stiff penalties on 95 percent of the retired group not now being restricted by present laws to give 5 percent of the group a very limited amount of relief.

We ask you to keep in mind the composition of the retired element these bills deal with—85 percent enlisted men, 10 percent career Reserve officers, and 5 percent Regular officers. It was fuzzy thinking which assumed that merely because you were for equity of treatment you necessarily were for something good.

It is believed that the Air Force Association has a longer record than any organization in supporting elimination of dual compensation restrictions on Regular officers. We urge you to end this discrimination against these officers and recommend that the Senate right this wrong by not putting the other 95 percent in a leaky boat.

Despite what you may have heard from other sources, the services, and particularly the Air Force, have bent over backward to carry out the provisions of the Gilpatric memorandum. In fact, they have bent so far backward that it has worked to the decided disadvantage of the Government and military retirees. Extremely small numbers have been hired since its issuance. However, since we also want to provide adequate career safeguards for dedicated civil service

employees against the use of undue influence, we are willing to go along with its present provisions being written into law.

We are opposed, however, to the broadening of the policy for a "cooling off" period of 6 months on a DOD-wide basis. Can the members of the committee seriously visualize a qualified Navy enlisted man retiring at San Diego being able to get a civil service mechanic's job at the Air Force depot in San Antonio by the use of pressure or undue influence? Or, for that matter, it seems equally difficult to believe that the Navy would hire an Air Force or Army colonel at a Navy installation through the use of "buddy system" influence.

This section (204) was put in the bill in its present form as the result of a great smokescreen of undocumented charges with regard to cross-service employment and amounts to a covert effort to eliminate competition. We believe those supporting this section as written should be asked for documentation to justify their positions, since this section of the bill may defeat its very purposes. How many retirees with families can wait 6 months to look for a job?

We, as a matter of principle, resent the implications inherent in the Gilpatric memorandum, but we assume that we are going to be forced to live with it. To restrict the hiring of military retirees for 6 months anywhere in DOD, as now contained in the House bill, can only have the purpose behind of it of eliminating competition and forcing military retirees to look elsewhere. Based on the critical skills some of the people possess, this can only work to the further disadvantage of the Government.

We offer two alternatives for committee consideration, both of which will improve the Government's competitive position in hiring hard-to-get people:

(1) Write into law the Gilpatric memorandum as it was published. Restrict, if you must, retirees from taking jobs at bases of retirement for 6 months.

(2) Or if it must be, broaden the 6 months' restriction to the service from which retired to include the base and agency from which retired. For example, this would cover personnel retiring from the base of another service, or retiring from a joint Defense agency.

But, Mr. Chairman, our main objection is to section 205 of the House bill. Unlike the many other provisions of the bill which were hammered out of an anvil—with the words "The Art of the Possible" stamped on its sides—this section was added in the last minutes of committee action without full consideration of what it would do to the bill.

As I mentioned earlier, the Air Force Association has among its members thousands of civil servants, and we are as proud of them as we are of the military for the part they play in national defense. In order to evaluate the impact section 205 would have on the bill we went to a senior group of experts working full time as civil service personnel officers. Here is what their evaluation said:

Section 205 of H.R. 7381 would prevent the employment of retired military personnel under Federal civil service. It would seriously compromise the Government's ability to obtain well-qualified workers, from whatever source. And it would undermine public confidence in the entire Federal civil service system, which must fill some 300,000 jobs annually.

Section 205 would prevent the announcement of examinations in advance of civil service vacancies. This would make necessary a monstrous number of examinations—even for single vacancies. The resulting delays in filling jobs would become critical, and the resulting administrative mess would become ludicrous. With retired military people in the act, section 205 would threaten the entire civil service examining system. We cannot permit the entire system to fall by the wayside. Under section 205, we would have to reject all retired military personnel from Federal employment. This would be a tragedy. But we would have no choice. The retired military man would have to be sacrificed.

In summary, we know that a law everyone supports 100 percent is rare indeed, but as a practical matter we must ask the committee to reject the administration's bill and adopt the House bill with these changes as a minimum:

- (1) Eliminate the pay formula discrimination against Regular officers.
- (2) Eliminate or at least restrict the application of section 204 to something less than DOD-wide.
- (3) Completely eliminate section 205.

Senator YARBOROUGH. The next witness is John A. McCart, general director of the Government Employees' Council of the AFL-CIO.

STATEMENT OF JOHN A. McCART, GENERAL DIRECTOR, GOVERNMENT EMPLOYEES' COUNCIL OF THE AFL-CIO

Mr. McCART. Mr. Chairman, Senator.

Mr. Chairman, in view of the time limitations under which the subcommittee is working I would be happy to have my statement incorporated in the record and to proceed with an extemporaneous summary.

Senator YARBOROUGH. The statement will be printed in full in the record at the conclusion of your oral presentation.

Mr. McCART, please proceed.

Mr. McCART. Mr. Chairman, the 25 unions associated with our council, like so many other witnesses before, approved the intended purpose of the 2 bills pending before the subcommittee. I think it is significant to note that almost without exception the witnesses have endorsed the principles of the legislation. It is on a few of the mechanics that we encounter problems.

I think it is well to devote just a moment to look at the background of the legislation. It has become traditional in our country to exercise some control over the entry of retired military personnel into the Federal civilian service. One of the primary purposes, obviously, is to maintain the civilian characteristics of the Federal civil service.

Fortunately, this theory is subscribed to not only by the major segment of the civilian work force but by the military personnel as well. I think it speaks well for the legislation that there is that general concurrence with the philosophy of it.

With that background, Mr. Chairman, I would like to address myself to several features of the pending bills. I would like to deal first with the restriction on dual compensation involved in S. 1912 and H.R. 7381.

H.R. 7381 carries a military retired pay minimum of \$2,000 plus the entire civilian compensation plus 50 percent of the remainder of the military pay. We favor this feature of the bill because it is related basically to the average retired pay of enlisted personnel, and in that connection we note in the House bill that the restriction on dual compensation applies only to Regular commissioned officers who are retired. We feel that this particular control should be applied equally to all retired military personnel—Reserve, enlisted, and Regular.

With respect to the status of enlisted personnel in civilian jobs, as I recollect it, there were approximately 11,000 occupying civilian positions in the defense agencies about a year ago, and I think in terms of numbers we must remember this and in terms of fixing the appropriate restriction on the rest of military and civilian pay.

On retirement and leave, the bill approved by the House committee relates these benefits to those provided under the Civil Service Retirement Act. We feel that the provision of the House bill in this connection is appropriate and desirable, so that the civilian retirement system will be preserved and the individuals who compete fairly for civilian jobs from the military service will be assured of appropriate retirement consideration and also leave consideration.

Now, one feature of the House bill permits the Civil Service Commission, by regulation, to make exceptions to the dual compensation controls. Both the House and Senate versions refer to supervision by

the President in this regard, but we simply want to note, Mr. Chairman, that it is essential in our view that the President be retained in this legislation as the focal point of these exceptions so that they will be used frugally in the first instance, and secondly, there will be appropriate publicity of special exceptions that are made that could possibly be made in individual cases.

With respect to the Gilpatric amendment, we heartily endorse the inclusion of this feature of the House bill.

As you know, the Gilpatric amendment was prompted largely by continued complaints from civilian employees about the broad practice of having military personnel, who have retired, enter civilian service without the usual safeguards of competition. We feel very strongly that military personnel who retire should be given equal opportunities for jobs with others; by the same token, we are equally convinced that they should have been given no preferential treatment, particularly those who are careerists and who earlier completed a career in the military service.

The Gilpatric amendment has worked to an extent, it has not accomplished all it was designed to accomplish.

At the present time it applies only within each service. Under the language provided in the House bill, the Gilpatric amendment would be applicable to all of the three services. We feel rather strongly that it is desirable to include the gist of the Gilpatric amendment as a matter of legislative action so that while the Congress is dealing with this very complex problem of a consolidation of dual compensation and dual employment laws that this will also be made a part of legislative policy.

Mr. Chairman, with the observations we have offered and the amendments we have suggested to the pending legislation, we feel sure that the committee will be making a very sound contribution to the stabilization of this problem in the future.

As you know, it has been a very vexing one for those of us who represent civilian employees. We are anxious to make sure that retired military personnel do have an opportunity to achieve Federal employment under the same conditions that are granted to other people, but by the same token we want to make certain that we preserve the competitive, impartial nature of the civil service system.

We heartily recommend the legislation to your favorable action and we particularly want to stress the features of the bills that we have pointed out earlier in our testimony.

Thank you, Mr. Chairman.

Senator YARBOROUGH. Thank you, Mr. McCart.

Any questions?

Senator BOGGS. No questions.

Senator YARBOROUGH. Any questions of the staff?

Thank you very much.

(The complete statement of Mr. McCart is as follows:)

STATEMENT OF JOHN A. MCCART, OPERATIONS DIRECTOR, GOVERNMENT EMPLOYEES' COUNCIL, AFL-CIO

Mr. Chairman and members of the committee, the Government Employees' Council, which speaks in behalf of 25 unions representing a significant cross section of Federal classified, postal, and wage board employees welcomes the

opportunity to offer its comments on the important legislation, which is the subject of this hearing.

In one respect, the proposals are unusual. They have elicited almost unanimous agreement that steps must be taken to consolidate and overhaul the large number of confusing statutes which now govern the entry of retired military personnel into the Federal civil service system.

But the accomplishment of this objective is no easy task. As previous testimony indicates, agreement on the need for revision of the present laws stops short of complete endorsement of all the provisions of the bills.

Nevertheless, experience with the plethora of laws we now have on dual compensation and dual employment dictates that the complexities involved in modifying the current legislative policies must not prevent action. Aside from the obvious need to consolidate the huge number of legislative enactments on this subject over the years, equity to both retired military personnel and civilian career employees requires any early solution.

As the dates of the various dual compensation statutes reveal, control in this field has become traditional in our country. Some maintain its roots are found in English civil law. In any case, it is a generally accepted concept in our Nation that great care must be exercised in employing military personnel in civilian capacities in the Federal Government. One apparent reason is to insure the maintenance of the Federal Government as a civilian institution. There has been little quarrel with this philosophy. Fortunately, career military officials have subscribed to this political principle also.

With this background, we can review the pending legislation with greater understanding. Any difference of opinion over the proposals is likely to come on the issue of how to achieve the necessary modifications and their extent, rather than over the need for consolidation and modernization of the laws now in effect.

In our view, there should be two fundamental objectives in moving the pending recommendations on dual compensation and dual employment through the legislative process. The first is to preserve the civilian nature of the Federal merit system so that individuals who enter civil service as a primary career may be assured a reasonable opportunity to advance in that career in accordance with their abilities. The second basic purpose should be to permit competition for Federal civilian jobs by career military personnel who retire in keeping with the need for maintaining civil service as a civilian career system.

Even if these bills under consideration had no other advantage, they would place in one comprehensive statute the policies governing the admission of retired military men and women into the ranks of civil service employment. They would merge the numerous piecemeal laws enacted at various intervals to meet special circumstances.

But the legislation accomplishes much more than that. It supplies a system of pay and employment conditions for all retired military employees who seek civilian positions.

S. 1912 permits retired military personnel in all categories who are employed in civilian jobs to retain the first \$2,000 of retired pay, plus 50 percent of the remainder and their entire civilian compensation. The reduction in retired pay does not apply in cases of disability or to temporary appointments.

A similar restriction on retired military pay is found in H.R. 7381 also. However, the control extends in the House bill only to retired Regular commissioned officers. It is not applicable to retired reservists or enlisted personnel.

Recalling the basic purposes of the legislation, the Council believes it important to insure equal consideration for all those who retire from military service and desire to enter civilian Federal employment. The control on military and civilian pay should include enlisted and Reserve retirees.

We believe the \$2,000 figure is desirable. It represents the average retired pay of enlisted personnel. Hence, it is realistic in terms of the actual military compensation available to those who enter civilian occupations.

Both the House and Senate measures permit exceptions to the dual compensation restrictions to meet "special or emergency employment needs, which cannot otherwise be readily met." S. 1912 authorizes such statutory deviations under regulations issued by the President. The House bill allows the exception by Civil Service Commission regulations, subject to the supervision and control of the President.

We believe the words "special—Government employment needs which cannot otherwise be readily met" is broad and subject to various interpretations. Conceivably, "special" situations could be applied to one individual, and could be misconstrued by the employing agency.

The Council recommends, therefore, that section 102(d) be deleted, and the following language be substituted:

"(d) The President may through appropriate regulation provide exemptions from the restrictions in subsection (a) of this section to meet unusual employment needs."

Placing this authority directly in the hands of the President should help to underscore its importance and the necessity for its frugal use. Moreover, the publicity attending Presidential regulations will emphasize the basic controls in the legislation.

With respect to civilian retirement, the House bill does not modify present law, which prohibits credit of military service by a military retiree, except where a disability exists or the individual was retired as a reservist or the military retiree waives the military pension.

S. 1912 differs only to the extent that it permits civilian retirement credit where an individual has less than 6 years of active service.

Section 3(b) of the present Civil Service Retirement Act seems to contain more adequate safeguards of the civilian pension system, but allows the military retiree to credit all civilian employment if he elects to forgo the military pension. Consequently, we favor acceptance of the House version.

Annual leave entitlement under both the House and Senate versions is based on creditable service under the civil service retirement law. Under H.R. 7381, the military retiree could count for leave purposes only service in a war or campaign, and could credit all years in the Armed Forces, if disabled. The House provision is more desirable in the opinion of the Council. This position is based on the fact that peacetime service would be excluded for annual leave in most instances.

Of particular significance is incorporation into H.R. 7381 of the basic provisions of the Gilpatric memorandum. No similar proposal is found in S. 1912.

Mr. Gilpatric's communication represented the first definitive statement in many years designed to clarify the policy of the Defense Department on conditions governing employment of retired military personnel in civilian jobs in the respective services. It recognized the dual need for positive action to assure the right of career civilians to advance on merit, and at the same time to assure career military personnel of consideration to which they are entitled in competing for civilian jobs.

The memorandum was a large step in the direction of meeting the persistent complaints of civilian workers. It did not result in the complete elimination of all such complaints. But the communication was an honest effort to develop effective guidelines for those responsible for appointments to civilian jobs in the military agencies.

It is doubtful that any law or policy will remove every vestige of personal preference in hiring practices. But Mr. Gilpatric's statement made it clear that favoritism could not be justified or tolerated.

For these reasons, we urge strongly that the committee accept this feature of the House bill. H.R. 7381 requires a report to Congress by January 1966. S. 1912 contains no comparable feature.

There is general agreement that the subject of the pending legislation is involved and perplexing. All concerned are anxious to see that the interested parties are treated fairly and that the Federal Government's best interests are served. In dealing with a subject of this scope it is difficult to anticipate the precise effect of a new law on all the individuals who will be affected.

Presentation of a report to Congress on the actual operation of the new statute in practice will permit the House and Senate to review the matter to determine whether further remedial steps are needed. This is essential particularly during the first several years the consolidated statute is in effect.

The council recommends, therefore, that the committee preserve this section as it appears in the House bill.

With the amendments we have offered, the Council is convinced the pending bills are highly desirable legislation. The effects should be to preserve Federal service as a means for career civilian employees to make a maximum contribution to the operations of the Federal Government. At the same time, it will meet the administrative management needs of Federal officials charged with manpower responsibilities, and will extend to retired military personnel a fair opportunity to compete for civilian positions. Finally, it will remove much of the uncertainty and confusion surrounding the dual compensation and dual employment statutes now in effect.

With these revisions, we urge the committee to process this legislation toward enactment at an early date.

To you and your colleagues on the committee we offer sincere appreciation for arranging this series of hearings on a challenging issue.

Senator YARBOROUGH. The next witness will be Mr. Jerome Keating, president of the National Association of Letter Carriers.

Mr. Keating, we are glad to hear from you.

STATEMENT OF JEROME KEATING, PRESIDENT, NATIONAL ASSOCIATION OF LETTER CARRIERS, ACCOMPANIED BY DON KERLIN, LEGISLATIVE CONSULTANT

Mr. KEATING. Senator, I am happy to have with me on this occasion J. Don Kerlin, whom you all know very well, who is our legislative consultant.

You have had a good deal of testimony on this bill today. Generally we are in favor with the purposes of this bill which is to provide a little bit more orderly procedure, in the area of dual compensation.

We support pretty much the statement that was made here by John McCart. There is one thing, however, that I want to call to your attention that I think should be considered by the committee although I do not think it necessarily affects this legislation. It is the fact that we do not have in the Government uniform consideration for retired people.

Persons that retire under the Civil Service Retirement Act do not have the same rights and privileges as do persons who retire from the military services.

Under S. 1912 it is proposed that a retired military person who is reemployed could retain \$2,000 plus 50 percent of the remainder of his retired pay and retain the full amount of compensation that he would receive from the Government.

This is not applicable to temporary employees or to retired reservists or enlisted personnel. Under the Civil Service Retirement Act if a retiree is employed he is paid only the difference between his annuity and the normal salary of the position.

I know that there is a lot of talk about the Civil Service Retirement Act not being fully funded. It is the only program that we try to have fully funded in Government; other programs are not on a funded basis. We do believe there should be a little bit more equality of consideration when you consider the retirees in both categories.

It is true that there are more retired military personnel seeking positions than retired civil service employees who seek Government employment. But in employing the military we are very strongly in favor of this provision that when they are employed they should, as far as possible, be selected on a fully competitive basis. For the ordinary jobs we think that the competitive features of civil service retirement should be retained and we think that the rights of the civilian employees should be thoroughly protected.

We are in favor of the veterans preference; in fact, the majority of the members of our organization are veterans and they have some form of veterans preference. Many have disability and most of them have at least 5-percent preference. We are in favor of protecting

veterans preference, we want to see the veterans given every consideration and we support that provision very strongly.

But we believe that the competitive feature should be retained and that when and if exceptions are made they should be by specific order of the President.

Outside of that I would like to file and will file a more detailed statement. But those are some features of this legislation that I thought should have been discussed here this afternoon.

Senator YARBOROUGH. We will be glad, Mr. Keating, to receive your full statement on your behalf and behalf of the organization you represent. I know you were on the witness list to testify fairly early this morning but you could not make it this morning. It was fortunate for us that we had this hearing this afternoon so you would have an opportunity to appear.

Mr. KEATING. I got tied up at the last minute, Senator; I am sorry I was not here.

(Subsequently Mr. Keating supplied the following supplemental statement:)

STATEMENT OF JEROME J. KEATING, PRESIDENT, NATIONAL ASSOCIATION OF LETTER CARRIERS

I would like to compliment this committee and the Civil Service Commission for their efforts to correct the existing dual employment, dual compensation problem. This problem has many angles, all which have been thoroughly discussed during these hearings. It is our belief that the current bill with some amendments will go a long way to create a more harmonious situation. We suggest the following three amendments:

First. It is suggested that section 102(d) be amended to read as follows: "Exceptions to the restrictions in subsection (a) of this section may be authorized by the President whenever it is determined to be warranted on the basis of emergency or unusual Government employment needs which cannot otherwise be readily met."

Section 102(d) in its present form would permit exemptions under regulations prescribed by the President. We assume this to mean that the President would issue regulations under which departments and agencies could grant exemptions. We do not think such a delegation would be wise or in keeping with the seriousness of the situation. Under the language we propose, only the President could authorize exemptions to the provisions of the bill.

Second. The National Association of Letter Carriers believes strongly in the principle of merit promotion and appointment enunciated in the Gilpatric directive. To this end the Gilpatric directive sets forth conditions precedent to the employment of retired military personnel in civilian positions. Necessarily, the conditions applied only to employment in the Department of Defense. It is suggested that the conditions set forth in the Gilpatric memorandum be embodied in the bill and extended to the entire Federal service.

Third. It is recommended that the bill be amended to require an annual report from the executive branch to the Congress on the administration of the act. We think Congress and the public should know how the measure is being administered and how it is working out, at least for the first few years after its adoption. Such a report would make this possible.

Thank you very much for the opportunity of appearing and presenting the views of the National Association of Letter Carriers on this important measure.

Senator YARBOROUGH. Senator Boggs.

Senator BOGGS. No questions.

Senator YARBOROUGH. Any questions of the staff?

We will hold this open for a certain number of days for those statements.

Thank you.

Mr. KEATING. Thank you.

Senator YARBOROUGH. Senator Boggs, will you take over? I have another engagement starting at 2:30 and I am a little bit late. I will be grateful if you will conduct the rest of the hearings.

Senator Boggs. I will be glad to, Mr. Chairman.

Major Stafford, we are glad to have you.

Major Stafford, are you appearing on your own behalf or are you representing an organization?

STATEMENT OF MAJ. THOMAS L. STAFFORD, U.S. ARMY (RETIRED)

Major STAFFORD. No, sir, I come before you today, Mr. Chairman, as a private citizen, representing no group or agency and under no encouragement from anyone.

Senator BOGGS. We are glad to have you with us, sir.

Major STAFFORD. Since this bill is directed toward people in my category I thought the committee might be interested in hearing testimony concerning some of the problems a military man faces upon retirement, particularly if he desires to continue in the service of his country.

In order that you may better evaluate my testimony I would like to touch briefly on my military service.

I was drafted out of college in 1943 at the age of 19; after completing basic training I applied for OCS but was told I was too young to lead troops in the Quartermaster Corps. I volunteered for overseas duty and arrived in England in time to participate in the action on Omaha Beach on June 6, 1944. I participated in five campaigns, receiving five battlefield promotions including a battlefield commission, all in the same infantry rifle platoon. After the war, in 1948, I applied for a Regular Army commission but I was denied it because of poor eyesight. I decided to stay on in the Army, believing back in those days that a reservist who served honorably and officially could complete 30 years service. I served 4 years in Germany during the Russian buildup, the cold war, and in the Berlin area.

Since 1954 I served three tours in the Pacific. During the last 5 years I was decorated twice for work in financial management. During that period I received letters of commendation and appreciation for my work in budgeting and cash control.

I think anyone would admit that few people below the rank of colonel are fortunate enough to get two peacetime decorations.

In the fall of 1961 I was informed as a reservist I was due for mandatory retirement upon completion of 20 years duty in the summer of 1963. Upon my return to the States in 1962 I wrote several letters to the Department of the Army requesting permission to continue on active duty but none of these requests received favorable consideration.

On June 1, 1963, I was retired from active duty. Believing that my experience and background, particularly in financial management, would be of value to the Government I decided to seek employment as a civil service employee.

Having received no orientation or counseling on obtaining a job after retirement by any Government agency, approximately a week before I retired I contacted the Civil Service Commission for advice in gaining employment. After discussing my background with a gentleman there in the Commission I was advised to seek eligibility under the famed "announcement." Since my military assignments

during the last 5 years' service had placed me in supervisory capacity over GS-13's, 12's and on down the line, I was informed I should have no difficulty in qualifying at the GS-13 level. I applied to the Commission on May 23 and went out to look for a job. Everywhere I went I was told there was no use discussing a position until after I had established eligibility.

I continued to contact various agencies in order to line up a job when this did arrive. I was always told the same thing, come back after you get your eligibility. I stayed at home and didn't leave the city. I was afraid this might come through and I might miss an opportunity.

Finally, on August 25, 3 months later, I received notice that I had been rated at the GS-13 level.

I continued to seek a job at this level but without success.

By September 15, I finally made up my mind there were no jobs available at the GS-13 level. I did line up a job at the GS-12 level and was told by the civilian that interviewed me that he had interviewed over 60 applicants for this job and he considered me the best qualified. I told him I would take the job.

Several weeks later, I think it was about the 4th or 5th of October, this civilian called me and informed me I could not be hired for the GS-12 position because I was on a GS-13 register. It was for the identical type work I had been doing, that I had had people below me I was supervising, I was fully qualified for the job.

I then called the Civil Service Commission and was told this was correct. I then asked how I could get on a lower register that would make me eligible for this lower rated job. I was told this particular area—financial management—was closed but as a veteran, provided it had not been more than 120 days since I retired, I could get on. Since my grace period was up on October 1, I find I cannot apply for any financial management level at any grade lower or higher than GS-13 and unless I want to go back and take that famed announcement again and try to get on at the 14 or 15 level, but I was told before having retired as a major I would ordinarily be classified as a 13.

I continued to contact various Government agencies on the average of seven per week since June, and I still have found no work.

I went out to NASA 2 months ago and took their exams, passed their exams, qualified at the GS-13 grade level, but have been informed there is a freeze now on employment at NASA. I have been told by numerous agencies that they do not hire from this field register for grades 13 or above. They only promote from within or on a lateral level. You have to have status or have a level of 13 or above.

Not to be facetious, I have been told by some who were wearing knee pants when I was on Omaha Beach that I don't have status, even though I have served this Government for 20 years.

I have been told by others that I lacked a college education even though I have been decorated for doing a job that others who were college graduates and whom I have relieved were not able to accomplish.

Mr. Macy stressed equal opportunity between the military and civilians. I don't believe it exists.

For example, the only way a retiree can find out where a job might exist is to keep in constant contact with the various civilian personnel

officers or learn about it from the grapevine. Even if a civilian who is in the financial management area, a civil service employee who is in the financial management area is not aware of a job opening that he might be interested in, he has a career branch to take care of him and refer him, if he is within range that is, if the job does become available. The military retiree does not have this contact. A retiree cannot get on this referral list unless he is appointed to a civil service position. A retiree in my category, if he finds a position for which he qualifies, must go through the following procedure. First, I must locate this job; then I must convince the people that I am the man for the job; then they must go back to the Department of the Army, Comptroller career field, request that my name be put on this referral list, one shot only, sent back to the agency, then if I still stack up against the 10 civil service employees that are on there, I have no qualm of that, if I still stack up, then they have to go back to the Civil Service Commission and ask that I be certificated back, even though the Civil Service Commission has already given me an eligibility rating at the GS-13 level.

This takes considerable time, and you walk into an operating official who is hard pressed, has to get a job done—I have been in this position myself before— if it is a matter of taking a military man who is better qualified but you have to wait 45 or 60 days to get him, why not take lesser qualified men, why waste his time, when you might wind up at the end of this process of not getting the retiree at all because he might be bumped out by somebody else, or might not even be referred back by the Civil Service Commission. They will only refer three people back.

A retiree in order to qualify for an eligibility rating, no matter what he did before in the service, must take an examination administered by the Civil Service Commission. I have no argument whatsoever with their requirement except that the military man, I believe, is generally rated lower than the responsibility level he functioned on while in service.

I would like to give you an example of this inequality. Suppose in my last assignment where I was a budget officer, I had a branch chief down below me, he was a GS-12. Today the Civil Service Commission has given me a rating of 13. I had to take an examination for this rating. There is a job open at the 13 level somewhere. This civilian employee that worked under me as one of my branch chiefs lower down the ladder, he wants to take a crack at this 13 job, too. We both go in together, we have to get on the same referral list; if I am selected I have to go back to the Commission, like I mentioned before, for certification. If the civilian is selected he gets the job, point blank, no waiting time whatsoever. So I leave it to you, Senator, if you were in the position of a person who was trying to hire somebody who would you take?

I have run into many instances in civilian personnel offices where I was told that there were no jobs available only to learn later that there had been jobs available at the GS-13 level when I came in and applied for them in this particular career field.

I would like to touch lightly on this Gilpatric amendment because it has been mentioned here several times before and I would like to bring it to your attention of how tremendous an effective club this thing has become.

The Gilpatric directive, I think everyone realizes, was directed toward prohibiting a man from seeking employment at the installation from which he retired from. Normally we in the service—Navy, Marines, Army, or anywhere else—consider an installation as a base. For example, Fort Bragg or the Norfolk Naval Base, or something of this nature.

This I have no argument with. I had no argument with it at the time although I thought it was a stab in the back and a slight, an unfair quarantine, but at any rate I went ahead and complied with it. I did not try to seek employment in the installation I retired from which was MDW. I was told some persons in the Department of the Army interpret installation to apply to every Army installation within the commuting distance of Washington.

Now, this requires the civilian personnel offices to, if a man comes in, a military retiree, it requires them to go in with a very detailed, a very lengthy, and a very soul-searching résumé on this individual. Well, to quote the CPC, the civilian personnel circular 13 dated August 15, 1963: It states in leading off: "In applying the term 'installation,' a broad interpretation would be given in any borderline case."

The people in DA took it upon themselves to make it apply to the whole area here. It goes on to state that full consideration in accordance with inservice placements, promotion procedures will be given to eligible career employees before selecting retired military personnel for civil service positions.

It goes on to state that in this résumé they must include a description of the recruitment efforts undertaken to locate qualified applicants relating them to applicable requirements as appropriate. They must also include a statement of the qualification requirements which were established including information or special qualifications required or considered in the selection process.

It goes on to state that where a military retiree is selected over qualified inservice applicants, furnish a comparative analysis of each applicant. It goes on and on and on, finally winds up stating that approval of the request extends over to a review of the steps required to insure compliance with the purposes of the memorandum and with all the employment requirements.

All this is a big-brother game.

Senator BOGGS. We have that Gilpatric memorandum in the record.

Major STAFFORD. I would like to touch lightly on withholding pay. The gentleman who just preceded me made some statement, I don't recall exactly how he puts it, but I would like to point out that I as a military retiree, if I went to work for the Government at a GS-13 level, if I was called back to active duty, my civilian pay would go out the window, and rightfully so, my retired pay would go out the window, rightfully so. I would go back to the pay I retired from as a major. I don't see what his argument amounted to.

I do not want to bore you with any more details, sir, but I would like to say this in closing, after 6½ months of fruitlessly seeking a job, I have come to the conclusion I am a second-class citizen. I have almost completely exhausted my life's savings; I realize if I do not find work before the 15th of January, I am going to be forced to sell my house; that is, if I want to continue to get on with the Government.

Again I do not want to be facetious, but I must say there is not going to be any Christmas in my house, sir, but I wish you a Merry Christmas.

Senator Boggs. Major, I want to thank you for your statement; I appreciate it and I assure you the committee appreciates it very much.

Major STAFFORD. Thank you, sir.

Senator Boggs. Thank you.

There have been a number of statements submitted for inclusion in this hearing record. All will be printed.

The Chair will announce that the record will be kept open until next Monday, December 16, for further statements.

The hearing is adjourned.

(Whereupon, at 3 p.m., the hearing was closed.)

(Subsequently the National Aeronautics and Space Administration submitted the following communication and exhibits:)

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION,
OFFICE OF THE ADMINISTRATOR,
Washington, D.C., January 31, 1964.

Hon. RALPH W. YARBOROUGH,
Chairman, Subcommittee on Civil Service, Committee on Post Office and Civil Service, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Reference is made to the hearings conducted by the Subcommittee on Civil Service of the Senate Committee on Post Office and Civil Service on December 12, 1963, on dual compensation, S. 1912, and including consideration of the form of the dual compensation bill, H.R. 7381, as it now appears on the calendar of the House of Representatives.

The National Aeronautics and Space Administration favors the proposed legislation in order (1) to permit the Government to capitalize on certain skills, competence, and experience in the areas of aerospace science and technology possessed by a sizable group of military personnel who have completed their active duty careers and (2) to correct certain inequities in the present statutes pertaining to the employment of these personnel by the Government.

Many of the abilities and skills and much of the knowledge valuable to NASA are possessed by certain military personnel who have been closely associated with missile and military space programs and aeronautics. Collectively, this body of men, educated and skilled in aerospace science and technology, represents a reservoir of knowledge and experience which constitutes a national asset of inestimable value. Unless a substantial portion of this group of specialists can be attracted to remain in the Government, this asset will not be available directly to the Government's space program.

As of December 1, 1963, 251 active duty military officers were detailed to NASA from the Department of Defense for a 2- to 3-year tour of duty. Attached is a list of those officers.

The officers are primarily engineers, physical scientists, and administrative specialists whose backgrounds are directly pertinent to NASA's work. Of the 254 officers, 43 are of senior rank, and are performing key technical or management assignments. The senior grade officers in particular represent the type of personnel NASA desires to employ because of their specialized education and experience. The number of personnel so employed would be probably fewer than 50 in a fiscal year; however, each selection would represent the utilization of the very specialized talent and would significantly benefit the national space program.

The NASA has under its basic act, authority to employ retired military personnel without regard to the Dual Office Act of 1934. A similar exemption would be provided on a Government-wide basis by S. 1912 and H.R. 7381 as carried on the calendar in the House. In view of the fact that the dual office restriction does not now apply to the employment of retired military personnel by the NASA, this report addresses itself only to the dual compensation restrictions applicable to such employment under section 212 of the Economy Act of 1932.

The preferential treatment accorded most retired Reserve officers as compared to most retired Regulars under the current dual compensation law is felt within

NASA. To permit one to accept his retirement pay and not the other is unfair. There appears to be no valid reason for this distinction.

It is understood that Mr. J. Macy, Chairman of the Civil Service Commission, recommended at the hearing on December 12, 1963, that the amount of retirement pay to be retained by retired officers in Government positions be raised from the first \$2,000 of such pay plus one-half of the remainder, as presently stated in section 102(a) of S. 1912, to the first \$2,500 of such pay plus one-half of the remainder. The National Aeronautics and Space Administration endorses this recommendation.

NASA needs technical personnel highly trained and experienced in the space sciences and engineering. Retired officers meeting these criteria would be qualified to fill vacancies in NASA carrying salaries well above the level at which retirement pay is forfeited under the existing dual compensation law. Under these circumstances, NASA as a rule cannot successfully compete with industry for the services of these technically competent and experienced people.

The following cases are cited as typical of the problems being faced by NASA in attempting to fill key positions by employing retired military personnel competent and experienced in the aerospace field:

(1) A few months ago, a colonel retired from the U.S. Air Force after 23 years of military service including program management, commander of the test wing at Cape Kennedy during the critical Thor-Atlas period, and test commander at the Special Weapons Center. He was offered \$20,000 as an Assistant Director of NASA's Manned Spacecraft Center in Houston. He declined in favor of a \$27,000 position with Space Technology Laboratories in which position he would still be able to draw his \$7,000 military retirement pay. Dr. Walter Williams, who was then our Deputy Director at Houston and is now here at headquarters, believes the colonel would have accepted the NASA position if he could have retained his retirement pay.

(2) Recently a Navy captain, who was on duty at NASA's Manned Spacecraft Center in Houston as a branch chief, and who had served previously as range operations officer at Point Mugu, Calif., and in space surveillance at Dahlgren, Va., retired from the Navy. His experience was appropriate to work in the development of our Apollo tracking network, including coordination with the Jet Propulsion Laboratory, the Goddard Space Flight Center, and military tracking systems. Prior to retirement, he indicated an interest in a position with NASA. However, he accepted a position with private industry because NASA was unable to give him a position at the \$18,000 to \$20,000 level, which would have compensated in some measure for the loss of his retirement pay.

(3) A recently retired Navy captain, whose final year of active duty was served on detail at NASA headquarters as a division director, has accepted a most important NASA position as Director of Manned Space Flight Field Center Development, in anticipation of relief from the limitations imposed by the present dual compensation law. Were it not for the present law, he would be eligible to receive more than \$6,000 retirement pay. With his qualifications, his services have been and continue to be sought by industry at a high level salary. While he would like to continue in the NASA program, he feels that he cannot afford to accept the financial penalty indefinitely.

(4) Similarly, a senior Army colonel who has been serving as program manager for the Saturn I/IB programs at the George C. Marshall Space Flight Center, Huntsville, Ala., has retired and has accepted civilian employment with NASA in anticipation of passage of this legislation.

(5) A Navy captain with over 30 years of service and extensive management experience in rocket testing and aerospace sciences is currently manager of the NASA Mississippi test operations, Gainesville, Miss. He faces statutory retirement in 1964. He doubts whether he can accept the penalty of forfeiting over \$9,500 retirement pay for civilian employment with NASA, although he has expressed a strong desire to remain with the NASA program.

(6) A U.S. Air Force colonel who is currently occupying a key position at our George C. Marshall Space Flight Center at Huntsville, Ala., is an additional example of a highly qualified officer who would like to continue in the NASA program if the financial penalty is removed.

(7) NASA has in its employ at the present time several senior retired Regular military personnel. One is on the Deputy Associate Administrator level, which is the highest level of general executives within the agency. These officers have served in industry at much higher combined industry and military retirement pay than they are presently receiving at NASA. Like many civilian

personnel in the higher executive brackets, they are willing to forego, for a while at least, the attraction of the higher salary of industry in exchange for the experience and the personal satisfaction of participating firsthand in the Nation's space program. However, NASA can expect to lose the services of some of these men after a period of time, if they must continue to forfeit all or most of their retirement pay. This financial penalty in some cases approaches one-half to two-thirds of their salaries at NASA.

Much of the specialized knowledge and managerial experience which are required by NASA are possessed only by military personnel who have been closely associated for an extended period with missile and military space programs. There is an urgent need within NASA to draw on this source of experienced talent to fill some of the higher bracket executive positions which NASA has been unable to fill from other sources. In fact, NASA has recently addressed requests to the U.S. Air Force for the temporary assignment to NASA of two active duty officers at the brigadier general/colonel level to fill managerial positions in the manned space flight program. It is expected that it will be necessary in the near future to request three more active duty officers of these ranks, experienced in program management.

At the time that the hearings on H.R. 7381 were being held, letters from the three NASA Center Directors most heavily involved in the manned space flight program, expressing their strong interest in the provisions of the legislation as a means of assisting them in meeting their key personnel problems were made a part of the official record. Copies of these letters are attached.

In the light of all of the foregoing discussion, the National Aeronautics and Space Administration recommends that S. 1912 be enacted.

The Bureau of the Budget has advised that there is no objection from the standpoint of the administration's program, to the presentation of the report for the consideration of the committee.

Sincerely yours,

JAMES E. WEBB, Administrator.

Other junior grade military detailees occupying positions within NASA

Installation	Army ranks or equivalents				Totals
	2d Lieutenant	1st Lieutenant	Captain	Major	
Headquarters.....			2	5	7
Ames Research Center.....	6	7			13
Flight Research Center.....	1	1	2		4
Goddard Space Flight Center.....	10	4		1	15
Jet Propulsion Laboratory.....	13	7			20
Langley Research Center.....	28	3		1	32
Launch Operations Center.....				2	2
Marshall Space Flight Center.....	11	17	4	6	38
Wallops Station.....	1	1			2
Manned Spacecraft Center.....	7	3	13	13	36
Lewis Research Center.....	17	23	1	1	42
Total.....	94	66	22	29	211

Roster of senior grade (lieutenant colonel and above) military detailees occupying positions with NASA

Name--Headquarters	Years of service	Grade	Service	Position title	Reason background was appropriate for NASA work
Bathurst, Raymond J.	21	Lieutenant colonel	USAF	Program resources specialist, Office of Manned Space Flight.	M.B.A., management of R. & D.; 10 years experience in R. & D. programming.
Berry, Secret L.	28	do	USAF	Program management assistant, Office of Manned Space Flight.	5 years experience in R. & D. facility engineering and planning.
Chetlin, Norman D.	18	Com-mander	USN	Marine transportation specialist, Office of Administration.	M.B.A.; 5 years experience in marine transportation.
Cox, Sidney S.	18	do	USN	Technical management specialist, Office of Advanced Research and Technology.	M.S., aeronautics and space science; 18 years experience in aeronautics and weapons engineering.
Dougherty, John J.	18	do	USN	Assistant Director, Communications Systems, Office of Space Sciences and Applications.	M.S., engineering electronics; 18 years experience in industrial electronics engineering.
Haley, Richard L.	18	Lieutenant colonel	USAF	Staff engineer, Office of Space Sciences and Applications.	P.H.D., electrical engineering; 18 years engineering experience.
Holcomb, John K.	20	Captain	USN	Assistant Director, Launch Operations, Office of Manned Space Flight.	M.S., aeronautics and space science; 20 years experience in aeronautical and weapons engineering.
Hull, Harris B.	21	Brigadier general	USAF	Assistant to Assistant Administrator for Technology Utilization and Policy Planning.	Extensive experience in news media.
Kelly, Albert J.	18	Com-mander	USN	Director of Electronics and Control, Office of Advanced Research and Technology.	P.H.D., aeronautics and space science; 18 years experience in aeronautical and weapons engineering.
Kahao, Martin J. B.	22	Captain	USN	Special assistant, Office of Manned Space Flight.	M.A., business administration.
Kier, Kenneth J.	21	Com-mander	USN	Chief, Secretariat Services Branch, Office of the Administrator.	M.S., in civil engineering with 20 years related experience.
Loeffler, Harry H.	20	Captain	USN	Director, Special Operations, Office of Construction.	18 years experience in public information.
Powers, John A.	19	Lieutenant colonel	USAF	Technical assistant to Director, Office of Special Services.	M.S., engineering; 16 years experience in weapons engineering.
Pritchard, Rueben B.	17	Com-mander	USN	Chief, Flight Crew Operations, Office of Manned Space Flight.	5 years experience in aerospace medicine from R. & D. standpoint. Not an M.D.
Regis, Edward R.	21	Lieutenant colonel	USAF	Technical assistant to Director of Biotechnology and Human Research, Office of Advanced Research and Technology.	M.S., aeronautics and space science; 20 years experience in aeronautical and weapons engineering.
Scherer, Lee R.	20	Captain	USN	Program officer, Surveyor program, Office of Space Sciences and Applications.	M.S., civil engineering; 26 years experience in civil engineering.
Solohub, Vincent J.	26	Colonel	USA	Deputy Director, Office of Construction.	M.S., E.E.
Smith, Ray F.	21	Com-mander	USN	Long-range plans officer, Office of Manned Space Flight.	M.S., aeronautics and space science; 21 years experience in aeronautical and weapons engineering.
Van Ness, Harper E.	21	Captain	USN	Assistant Director for Space Flight Operations, Office of Manned Space Flight.	M.D., naval aviator; experience in aviation medicine and biological sciences.
Voris, Frank B.	27	do	USN	Chief, Human Research, Office of Advanced Research and Technology.	

Roster of senior grade (lieutenant colonel and above) military detailees occupying positions with NASA—Continued

Name—Headquarters	Years of service	Grade	Service	Position title	Reason background was appropriate for NASA work
Warren, Robert E.....	28	Colonel.....	USA	Assistant Director, Communications Systems, Office of Space Sciences and Applications	Ph. D., physics.
Wise, Henry G.....	21	Lieutenant colonel.....	USAF	Branch Chief, Mercury, Gemini, and Apollo Programs, Office of Manned Space Flight	M.S., psychology; 10 years experience in research and development.
Young, Robert P.....	21	Colonel.....	USA	Executive officer to Administrator	M.S., civil engineering; extensive experience as staff officer.
AMES RESEARCH CENTER					
Fugitt, Charles H.....	20	Commander.....	USN	AST, life sciences program management, Office of Assistant Director for Life Sciences	Ph. D., biophysics; B.S., physical chemistry; 13 years experience in research and development activities.
GEORGE C. MARSHALL SPACE FLIGHT CENTER					
Brouss, Robert C.....	21	Lieutenant Colonel.....	USAF	AST, technical management	M.S., aeronautical engineering; 10 years' experience in research and development.
Fellows, Walter S.....	24	Colonel.....	USAF	AST, launch vehicle project management	10 years' experience in research and development; 3 years prior to NASA with Aircraft Nuclear Propulsion Office and Atomic Energy Commission.
Fortune, William C.....	30	Captain.....	USN	Manager, Mississippi test operations, (Tennessee, Miss.)	M.S., aeronautics and space science; 30 years' experience in aeronautical and weapons engineering.
James, Lee B.....	20	Colonel.....	USA	AST, launch vehicle project management	Extensive experience in R. & D. management with Army Ballistic Missile Agency.
Kessler, Robert R.....	27	do.....	USA	do.....	M.S., electrical engineering; 24 years' experience in research and development.
Palmer, Charles R.....	18	Lieutenant Colonel.....	USA	AST, experimental facilities and equipment	Extensive experience in R. & D. facility engineering including 1 year as liaison officer with NASA.
LAUNCH OPERATIONS CENTER					
Bagnulo, Aldo H.....	25	Colonel.....	USA	do.....	M.S., civil engineering with 25 years' related experience. Jupiter and Redstone project officer at Atlantic Missile Range prior to NASA. Experience in range operations.
Clark, Raymond L.....	18	Lieutenant Colonel.....	USA	AST, technical management	B.S., E.E.; 10 years' experience in R. & D. Director U.S. Air Force.
Hicks, Ralph E.....	21	do.....	USAF	AST, flight range coordination, project officer, NASA Test Support Office	Specialized experience in Redstone range management.
Petrone, Rocco A.....	17	do.....	USA	AST, launch operations project management	

MANNED SPACECRAFT CENTER						
Brady, Aubrey L.	27	do	USAF	AST, radiology and radiation biology, Crew Systems Division.		B.S., engineering, management of R. & D.; 10 years' experience with Armed Forces Special Weapons Command.
Glenn, John H.	21	do	USMC	Astronaut.		
Hessburg, Rufus R.	22	Colonel	USAF	Special assistant to Chief, Crew Systems Division, for Medical Programs.		M.D.; extensive experience in aerospace medicine and bioastronautics with Air Force Systems Command.
Gordon, John J.	20	Commander	USN	Flight surgeon, aerospace medical operations.		M.D.; experienced in aviation medicine.
Morris, David F.	21	do	USN	Head, Medical Operations Sections, Crew Systems Division, with duty station, Cape Kennedy, Fla.		M.D.; extensive experience in aerospace medicine and aviation medicine.
Schirra, Walter M., Jr.	18	do	USN	Astronaut.		
Shepard, Alan B.	19	do	USN	do		
Wakeland, William R.	20	Captain	USN	AST, technical management, Gemini project, Engineering Branch.		M.S., E.E.; 20 years' experience in weapons engineering.
White, Arthur R.	21	Lieutenant Colonel	USAF	Aerospace engineer, crew safety systems.		B.S., E.E.; 10 years' R. & D. safety experience.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION,
MANNED SPACECRAFT CENTER,
Houston, Tex., July 24, 1963.

To: NASA Headquarters, attention: Mr. James E. Webb, Administrator.

From: Director.

Subject: Employment of retired military personnel.

On July 8, 1963, the Manned Spacecraft Center cited three cases where we were unable to employ or retain Regular retired military personnel due to the restrictions of the Economy Act of 1932 on receipt of retirement pay and salaries earned when employed by the Federal Government. Those cases were Messrs. Henry Eichol, James M. Simpson, and Capt. David G. Woosley.

In the case of Mr. Eichol, we were unable to attract him with an excepted position offer at \$20,000 per year; and Captain Woosley, who is currently on military detail to this Center from the Navy, is retiring and, therefore, not interested in remaining with the Center unless he can be offered an excepted position. In this category there are no positions for which he can be considered. If Captain Woosley did not have to relinquish his military retirement, he would remain here in a civilian capacity at a GS-15 grade level.

Mr. Simpson was employed as a GS-11 at \$8,045 per annum and resigned after 1 week of employment because he would lose practically all of his retirement pay by remaining in the Federal service. The GS-11 salary of \$8,045 was an increase over the annual salary received from his previous position, but was less than the amount that he would forfeit from his retirement pay.

In view of my strong feelings regarding the inequities that the Economy Act places on Regular retired military personnel and the problem that it creates in recruiting eminently qualified specialists in space technology, it is appropriate for me to ask that every effort be made to obtain a repeal of or NASA exemption from the act referenced in paragraph 1.

If I can provide further supporting information to you, please contact me at your convenience.

ROBERT R. GILRUTH.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION,
GEORGE C. MARSHALL SPACE FLIGHT CENTER,
Huntsville, Ala., July 27, 1963.

MR. JAMES E. WEBB,
Administrator,
National Aeronautics and Space Administration,
Washington, D.C.

DEAR MR. WEBB: Beginning with the Manhattan project (World War II), the military services have placed increasing emphasis on acquiring and training officers in the scientific and engineering disciplines. Literally thousands of outstanding individuals serving in the military have received advanced degrees from leading universities, both here and abroad. Following academic training, the officers are placed in technical and management positions of increasing responsibility. Through well-established and time-tested processes, promotions are limited to an ever-decreasing number of outstanding individuals. Consequently, senior grade officers retiring after 20 years or so represent a select and unique pool of highly trained people still in the most productive years of life. For many years industry has recognized this situation and has actively recruited officers retiring from distinguished careers. Most of us are aware of cases where these men have moved to prominence in industry, often leapfrogging other individuals who have made their careers in private enterprise.

On the other hand, only a few retired officers can afford to join civilian Government under the present pay restrictions imposed on officers retiring from Regular careers in the military. To deprive such a relatively small group of making a free choice of postmilitary employment is not only unfair to the individuals concerned, but deprives Government agencies of their services.

With the expanding NASA programs there is an increasing need for mature and experienced individuals who not only have been trained in the various scientific and engineering fields, but have a thorough knowledge of public administration as it applies to Government-sponsored research and development.

With this in mind, I strongly urge that NASA actively support legislation now pending before Congress which would permit career officers to receive retirement pay even though they elect to continue Government careers in the civil service.

Sincerely yours,

WERNHER VON BRAUN, *Director*.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION,
LAUNCH OPERATIONS CENTER,
Cocoa Beach, Fla., July 24, 1963.

To: NASA Headquarters, attention: Mr. James Webb, code A.
From: Director, Launch Operations Center.

It is my understanding that you are testifying before the Congress later this week on the subject of dual compensation for retired military officers. As this is a matter which greatly affects retention and recruitment of qualified personnel for key positions in the Launch Operations Center, I would like to recommend that you strongly support new legislation which would remove the present inequities and allow the Government to take advantage of the background and training of many retired military personnel of the Regular services.

There are several positions within Launch Operations Center for which qualified personnel are available almost solely from active or retired military services. Due to the present dual compensation laws I have already been unable to retain highly competent Regular officers who are retiring from military service. This situation will continue and will be aggravated unless the present laws are changed. Many of these retiring personnel have stated a preference for Government employment but cannot afford to forfeit their earned retirement pay by so doing. These particularly qualified people, of course, have no difficulty in obtaining positions with industry and receive their military retirement pay.

I am firmly convinced that a change in the dual compensation laws to permit retention of retired military personnel within the Government without loss of retirement compensation would be of benefit to Launch Operations Center and have a direct bearing on the successful accomplishment of the NASA programs.

KURT H. DEBUS.

APPENDIX

STATEMENT OF HON. DAVID N. HENDERSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NORTH CAROLINA

Mr. Chairman, I appreciate this opportunity to present to your subcommittee my support for dual compensation and dual employment legislation. It is my understanding that the subcommittee is today considering S. 1912, a bill to simplify, modernize, and consolidate laws relating to the employment of civilians in more than one position and the laws concerning the civilian employment of retired members of the uniformed services. S. 1912, an administration-sponsored bill, is, I also understand, a companion to H.R. 7381, which was amended and reported out of the House Post Office and Civil Service Committee on November 7, 1963.

I believe there is definite need for legislation at this time.

First, current laws relating to dual employment are confusing, obsolete, and often unfair. H.R. 7381, as amended by the House Post Office and Civil Service Committee, corrects this situation. Dual employment and dual compensation legislation would be simplified and consolidated.

Second, there is the specific need to correct the unfairness and confusion relating to dual compensation for 475 Retired Reserve officers and an unknown number of warrant officers who have been found by the Comptroller General of the United States to have received illegal dual compensation as employees of the Federal Government. The Comptroller General has ruled that retroactive collection action may be postponed until the end of this 1st session of the 88th Congress. The Assistant Secretary of Defense, Hon. Norman S. Paul, testifying on July 23, 1963, before the House Post Office and Civil Service Committee, stated that liability to the Government by some of these officers would be as much as \$30,000. Subsections (g) and (h) of section 202 would correct this situation.

Third, currently, a Regular officer without a physical disability is virtually barred from all Government employment, while at the same time a Reserve officer is not. In the next 8 years, some 42,000 Regular officers, many with excellent background experiences and with hard-to-find skills, will retire. Unless the present dual employment and compensation laws are revised these retired officers will be denied Government employment as civilians.

Mr. Chairman, H.R. 7381, as amended by the House committee, will go a long way toward untangling these confusing statutes. In addition to codifying all existing dual-compensation and dual-employment laws into one basic law, as this bill will do, the bill also provides appropriate safeguards so that the Federal civilian employment of retired military personnel will not grant them an unfair advantage over civilian employees.

These safeguards are established under sections 204 and 205 of H.R. 7381 to assure that consideration of retired military personnel for civilian positions is accomplished on an equitable competitive basis and to require a strict compliance in spirit and in procedure with the fundamental merit system principle of open job competition. These sections are intended to do away with the so-called buddy system under which a position is created or held open at a military installation for a buddy about to retire from the military service. This undesirable practice has been recognized by officials of the Department of Defense and procedures to safeguard the merit system were set forth in memorandums issued by the Deputy Secretary of Defense Roswell Gilpatric. Section 204 includes provisions embodying the essence of the Gilpatric policy.

While I feel the safeguards are adequate in section 204, the committee approved section 205, which requires that before a retired member of any of the uniformed services may be appointed to a civilian office in the competitive civil service of any agency in the executive branch, there must be public notice that a vacancy exists and that an assembled examination, where practicable, open to all persons, is to be given.

The Manpower Utilization Subcommittee, which I have the honor of serving as chairman, in cooperation with the Department of Defense made a study in 1959-60 of the hiring by the military departments of recently retired military personnel.

Our study revealed that in fiscal year 1960 the military services hired 1,964 military personnel who had retired within the year from active duty. Included were 346 commissioned Reserve officers, 154 warrant officers, and 1,464 enlisted men. Eleven hundred were appointed to Classification Act jobs and the remainder to wage board jobs.

This study revealed, what I have earlier called, the "buddy system." By that I mean such personnel practices as holding a job open until a particular man retires from the military, writing up a job to fit the qualifications of a certain individual, and the so-called "quickie appointments."

The name "quickie appointments" arose from several personnel actions by the services. For example, a lieutenant colonel in the Air Force Logistics Command retired on September 30, 1960. His military job was made into a GS-13 civilian position on October 2, and the next day, October 3, 1960, the retired lieutenant colonel was appointed to the new civilian spot. A major in the Air Force Ballistics Missiles Command retired on April 30, 1960. On May 2, 1960, he was appointed to a GS-11 civilian position which was created the day the major retired.

Not all such personnel practices were in the Air Force. The other services had rather similar cases. In fact, the subcommittee found 70 personnel cases sufficiently questionable as to warrant a special study by the Assistant Secretary of Defense for Manpower. These cases, in varying degrees, reflected preferential treatment to the military personnel who, upon retiring, were brought back into their own organization by key management officials, generally military officers of the activity.

As a result of this evidence of "buddy employment" the Manpower Utilization Subcommittee recommended to the Department of Defense an employment policy that would eliminate "quickie appointments," limit within-the-activity appointments, and give retiring military personnel the same chances as career civilians to compete for civilian jobs. This policy has become well known as the Gilpatric memorandum of July 5, 1961.

Due to additional information furnished the Manpower Utilization Subcommittee we requested the Secretary of Defense the next year, 1962, to include nonappropriated fund personnel under the Gilpatric policy. The Department has so done.

During our Manpower Utilization Subcommittee hearings earlier this year various officials from the Department of Defense, including Assistant Secretary of Defense Norman Paul and the Under Secretary of the Army Stephen Alles, testified that the Gilpatric memo was working and that "quickie" appointments were by and large eliminated. Our hearings, however, did reveal the need to expand servicewide the coverage of the Gilpatric policy. We have found that the "buddy system" can and does work between activities and even between services. Currently the Gilpatric policy relates only to a specific activity, where the military person actually retires.

When Secretary Norman Paul appeared before our committee last July in interest of subject legislation, I pointedly asked him if he thought the Gilpatric memo policy should be broadened to cover all the Defense Establishment. He said that it might very well be done and by legislation.

Mr. Chairman, section 204 in H.R. 7381 would put the Gilpatric policy into all the activities of the Department of Defense. I consider it necessary with our dynamic society and our ever-changing defense posture to have sufficient flexibility in personnel matters (i.e., closely guarded exceptional authority) so as not to hamper our Defense officials. Section 204 gives to the Civil Service Commission the authority to review exceptional cases as provided by the policy. Currently the Civil Service Commission does not exercise this authority. I believe it both necessary and wise to place the responsibility for final approval of all exceptions in the hands of the Civil Service Commission.

By placing this employment policy, as found in section 204 of H.R. 7381, as amended, we have said to all people—career civilian employees, active duty military personnel, retiring military personnel, or the man on the street seeking a job with the Federal Government—if you have the highest qualifications, you get the job. It is not who you know but what you know.

Mr. Chairman, again may I thank you for this opportunity to indicate my feelings relating to this important piece of legislation for Government personnel.

STATEMENT OF CHARLES E. PUSKAR, EXECUTIVE SECRETARY-TREASURER, NATIONAL ASSOCIATION OF POSTMASTERS

Mr. Chairman and members of the committee, my name is Charles E. Puskar, postmaster at Imperial, Pa., and I serve as executive secretary-treasurer and chairman of the legislative committee of the National Association of Postmasters of the United States.

Our association is the only national organization whose membership is composed entirely of active and retired postmasters. Of the 34,797 postmasters of the Nation, we have 33,802 or 97.42 percent as our members with associate membership of 1,315 retired postmasters.

We take pleasure in supporting the objectives of H.R. 7381, a bill to simplify, modernize, and consolidate the laws relating to the employment of civilians to more than one position and the laws concerning the civilian employment of retired members of the uniformed services and other purposes.

As Chairman Macy pointed out in a hearing before the House committee on July 11 and before your group today, there are more than 40 laws and 200 separate decisions of the Comptroller General relating to the employment of retired military personnel in Federal civilian positions or to the employment of a civilian to two different Federal positions.

We are interested in this legislation for the reason that retired military personnel on occasion have been appointed to the position of postmaster and restrictions in dual pay under the present laws have not been entirely satisfactory to them.

As we understand it, H.R. 7381 supersedes all existing laws limiting dual employment and dual compensation.

It also gives the Government authority to employ qualified military personnel and permits them to receive the full salary of the position plus the first \$2,000 of the military pay and 50 percent of any retired pay above \$2,000. If the retired military personnel goes to private industry he may, of course, receive the entire amount of retired pay plus pay of the new position. Today, Chairman Macy suggests that the first \$2,000 be increased to \$2,500 which we support.

While any restriction in pay seems to be a controversial feature, Mr. Macy sets forth that it is desirable from the standpoint of public policy, although the Government needs in many instances the technical experience of retired military personnel.

This measure would permit military personnel now in civilian jobs the option of either remaining under the present limitations (\$10,000 a year maximum) or come under the new law.

Also, it would provide retired military personnel now in civilian jobs relief from repayment of substantial amounts due to various recent interpretations of the present laws by the Comptroller General.

In brief, Mr. Chairman and members of the committee, we believe that this bill will correct a chaos of laws and interpretations and we recommend its favorable consideration.

Thanks for the opportunity of submitting this statement.

AMVETS,
NATIONAL HEADQUARTERS,
Washington, D.C., December 11, 1963.

HON. RALPH YARBOROUGH,
Chairman, Subcommittee on Civil Service,
U.S. Senate, Washington, D.C.

DEAR SENATOR YARBOROUGH: Reference is made to your communication of December 3, 1963, regarding hearings on H.R. 7381.

AMVETS are pleased to present our position on H.R. 7381, a measure to simplify and modernize laws relating to dual employment and dual compensation.

When hearings were held on H.R. 7381 before the Post Office and Civil Service Committee of the House, AMVETS opposed the proposed amendments to section 2 of the Veterans' Preference Act of 1944, and some of the language used in the proposed amendment to section 12 of the Veterans' Preference Act. While we agreed in principle that dedicated career civilian employees should be protected from undue advantages that accrue to retired military personnel who have completed a career in military service and then embark on a totally

new career in Federal employment, we felt that the original language of H.R. 7381 went far beyond the realm of simplification and/or the correction of real or imagined inequities.

AMVETS objections to the proposed amendments to the Veterans' Preference Act contained in H.R. 7381 have been eliminated by the amendments made by the House Committee on Post Office and Civil Service (Report 890). As now written, AMVETS feel that H.R. 7381 will accomplish its objectives, and at the same time protect both our career civil service employees and our veterans.

I am enclosing a copy of our testimony of July 23, 1963, before the House Committee on Post Office and Civil Service on H.R. 7381.

With kind personal regards, I remain,

Sincerely,

GARRETT J. BOWMAN,
National Service Director.

TESTIMONY OF GARRETT J. BOWMAN, AMVETS NATIONAL SERVICE DIRECTOR, BEFORE
THE HOUSE COMMITTEE ON POST OFFICE AND CIVIL SERVICE, ON JULY 23, 1963

Mr. Chairman and members of the committee, AMVETS are pleased to appear here today to present our views on H.R. 7381. At the outset, let me say, that AMVETS agree with the Chairman of the U.S. Civil Service Commission, John W. Macy, Jr., that from the standpoint of efficient, economical administration, a single, simplified, dual-compensation law is desirable. With the present hodgepodge of laws relating to dual compensation, it requires a remarkable feat of mental gymnastics even for the well informed to come up with a correct answer to the many complex problems that now arise in this field. To the end that H.R. 7381 would correct this situation, AMVETS have no objection to most of the provisions of this legislation.

In the proposed amendments to the Veterans Preference Act contained in H.R. 7381, AMVETS feel that here the legislation goes far beyond the realm of simplification. AMVETS will agree inequities do exist when retired military personnel are employed by the Federal Government, but here again, the proposed amendments to the Veterans Preference Act go far beyond the mere correction of these inequities. It will be to this portion of H.R. 7381 that AMVETS testimony will be directed.

AMVETS agree that dedicated career civilian employees should be protected from undue advantages that accrue to retired military personnel who have completed, and I stress the word completed, a career in military service, then embark on a totally new career in Federal employment. AMVETS suggest that this protection can be accorded our career civilian employees by the simple method of not allowing military personnel retired for longevity to use the years spent in completing their military career in computing length of service for retirement leave or reduction in force in their new careers as Federal employees.

AMVETS fail to see the necessity or justification for the arbitrary use of 6 years of continuous service to disenfranchise retired military personnel from their entitlement to the benefits of the Veterans Preference Act. You will note that earlier, we stressed the word "completed" in our reference to military careers. Up to and until the time a member of the Armed Forces is able to retire for longevity, he has not completed a career in military service. If he is retired prior to that time, his career has been interrupted because of disability, and to hold that, if qualified for employment, he cannot enter Federal service and complete his interrupted career without losing his veterans' preference, would, in the opinion of AMVETS, be a miscarriage of justice.

Many men who served in World War II and Korea planned on making a career of military service—they planned on being 30-year men. After 6, 7, 8, or more years, through no fault of their own, they are disabled by accident, injury, or disease and are forced to accept disability retirement. In many instances their retirement pay is less than their entitlement under the laws administered by the Veterans' Administration. In fact, many waive their retirement to accept Veterans' Administration benefits. In almost every instance, their retired pay or VA compensation is not sufficient to maintain them and they must seek employment. The proposed amendments to the Veterans' Preference Act contained in H.R. 7381 would deprive this group of the opportunity to complete their interrupted career by forcing them to make a so-called

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fresh start without the benefits of the Veterans' Preference Act. As stated previously, AMVETS fail to find any justification for applying the "fresh start" principle to this group.

When similar legislation was submitted to the previous Congress, and again when H.R. 7381 was submitted, spokesmen for the legislation stated that the main objectives were to simplify present statutes, to protect career civil servants from unfair competition, while allowing the Government to acquire the service of highly skilled retired military personnel. AMVETS agree with these basic aims but we do not agree with the proposed amendments to the Veterans' Preference Act supposedly designed to accomplish this.

In our opinion the addition of subsection (b) to section 2 of the Veterans' Preference Act of 1944 is unnecessary. If, as we are led to believe, one of the major reasons for the legislation is to recruit skilled retired military personnel, then they would, for the most part, be competing among themselves, and an amendment to this portion of the Veterans' Preference Act is unnecessary and would complicate rather than simplify present legislation. Furthermore, such phrases as "resulting from disease or injury received in line of duty as a direct result of armed conflict," or, "caused by an instrumentality of war incurred in line of duty during a period of war," certainly will not tend to simplify the administration of the Veterans' Preference Act. In addition, as we read this amendment, it would do away with veterans' preference for the wives and widows of retired military personnel with more than 6 years of service who subsequently die of service-connected disabilities or who are totally disabled.

The addition of the proposed subsection (b) of section 12 of the Veterans' Preference Act also complicates rather than simplifies. The desired protection for our civilian employees can be secured simply by not allowing military personnel who have retired on longevity to use the time spent in fulfilling their military career in computing length of service for retirement leave or retention in Federal employment.

The same simple basic amendment to the Civil Service Retirement Act would also accomplish the desired objectives rather than the complicated amendments proposed by H.R. 7381 in its present form.

AMVETS can subscribe to the "fresh start" principle for those who have completed a full military career and have been retired on longevity. We cannot, however, subscribe to this principle for those whose military careers have been interrupted through no fault of their own. These men began a career in Government service—they chose the military. Because of disability innocently acquired, their careers were terminated by disability retirement. In the opinion of AMVETS—if they otherwise qualify for Federal employment—they deserve the opportunity to complete this career of Government service without losing their entitlement to veterans' preference.

In AMVETS opinion, the use of any specific number of years short of longevity—would, in effect, penalize a man for plans that went astray. The only question that should be considered, is Did he or did he not complete a full military career? In AMVETS opinion, retirement short of longevity may be the end of a career but it certainly is not the completion of one.

Thank you gentlemen for your kind attention.

DISABLED AMERICAN VETERANS,
NATIONAL SERVICE HEADQUARTERS,
Washington, D.C., December 11, 1963.

HON. RALPH W. YARBOROUGH,
Chairman, Subcommittee on Civil Service of the Senate Committee on Post Office and Civil Service, New Senate Office Building, Washington, D.C.

DEAR SENATOR YARBOROUGH: Your subcommittee has before it for consideration H.R. 7381, a bill to simplify, modernize, and consolidate the laws relating to the employment of civilians in more than one position and the laws concerning the civilian employment of retired members of the uniformed services, and for other purposes.

In connection with this proposed legislation, we are enclosing a copy of a statement presented July 23, 1963, to the House Committee on Post Office and Civil Service. Included therein is the text of Resolution No. 20; adopted at the DAV 1962 National Convention. This resolution reaffirms the DAV's

opposition to any proposals, legislative or otherwise, that would serve to weaken or reduce benefits available to veterans under provisions of the Veterans' Preference Act of 1944.

H.R. 7381, as it was initially referred to the House Committee on Post Office and Civil Service, contained proposals that would have drastically diminished benefits accorded veterans under the Veterans' Preference Act of 1944. These unjust and altogether unnecessary proposals have been removed in the measure reported by the House Post Office and Civil Service Committee.

Although the DAV has no official position with respect to the other proposals covered in H.R. 7381, we would subscribe to them for the following reasons:

1. It provides a solution to the complicated and disordered dual compensation-dual employment laws that have confounded the Government for a good number of years. It would provide legislative relief by removing current restrictions on Government employment of retired military personnel.

2. Present laws are not only denying the military retiree the right to work in a civilian capacity for the Government, but are also denying our Government the services of many retired military persons who possess special abilities and skills needed in our national defense effort. H.R. 7381 would correct this situation.

3. It would give legislative relief to a number of retired commissioned and warrant officers now employed in civilian positions who, because of recent adverse Comptroller General decisions, are faced not only with possible dismissal but also with the possibility of having to refund overpayments of military retired pay or civilian salary.

4. It would require that before a retired member of any of the uniformed services may be appointed to a civilian office in the competitive civil service there must be public notice that a vacancy exists and that an assembled examination, open to all persons, is to be given. Also, the vacancy may be filled only from among those qualified persons who successfully complete such examination. This restriction would guarantee full consideration to qualified career civilian employees before retired military personnel are selected for a civil service position. It would eliminate the practice where very often positions were held open pending the retirement of a person in the military service in order to provide that person with a preferential opportunity to be appointed to the position.

For the foregoing reasons, the DAV favors the enactment of H.R. 7381 as reported by the House Post Office and Civil Service Committee.

Sincerely,

CHARLES L. HUBER,
National Director of Legislation.

STATEMENT OF CHARLES L. HUBER, NATIONAL DIRECTOR OF LEGISLATION DISABLED AMERICAN VETERANS, BEFORE THE HOUSE COMMITTEE ON POST OFFICE AND CIVIL SERVICE ON JULY 23, 1963

Mr. Chairman and members of the committee, the Disabled American Veterans appreciate this opportunity to present our views on H.R. 7381 which is a bill to simplify, modernize, and consolidate the laws relating to civilians in more than one position and the laws concerning the civilian employment of retired members of the uniformed services and for other purposes.

The Disabled American Veterans is a congressionally chartered veterans' organization representing approximately 215,000 members who were wounded, injured or disabled in line of duty during the time of war and who are honorably separated from service. "During time of war" is defined to include those whose wound, injury, or disability was incurred any time as (1) a direct result of armed conflict or (2) while engaged in extrahazardous service, including service under conditions simulating war.

The title of H.R. 7381 is incomplete since it fails to mention that one of its most significant parts is the proposal which will repeal a large portion of the Veterans' Preference Act of 1944. This bill does provide a substantial area of benefits for those retired former members of the Armed Forces affected by the Dual Compensation Act. However, the portion of the bill affecting the veterans' preference would have a drastic and adverse effect on many of this Nation's wartime service-connected disabled veterans and their dependents.

The Disabled American Veterans subscribes to those proposals which would usefully serve to consolidate and clarify the presently confused

mass of different statutes relating to dual compensation and dual employment for retired military personnel. The bill would provide legislative relief by removing restrictions on the Government employment of retired military members of the uniformed service. Present laws are denying our Government the special skills of many persons needed in our defense effort as well as denying the retiree the right to work in a civilian capacity for his Government.

Important legislative relief would also be given to a number of retired commissioned and warrant officers employed by the Federal Government in civilian jobs who, because of recent legal decisions, are now faced not only with possible dismissal but also with the possibility of returning overpayments of military retired pay or civilian salary.

Our organization does not have an official position in respect to these proposals. However, since they serve to rectify obvious wrongs contained in the present law, we would have no opposition to their favorable consideration.

Our position with respect to the portion of the bill which pertains to the Veterans' Preference Act is contained in Resolution No. 20, adopted at our last national convention held at Atlantic City, N.J., August 19-26, 1962, is as follows:

"Whereas the U.S. Civil Service Commission is frequently subjected to special studies, investigations, and surveys by various groups whose purpose it is to alter the structure of the Veterans' Preference Act, by eliminating preference for veterans in Federal employment; and

"Whereas any attempt to weaken the present structure of the Veterans' Preference Act, as amended, is in direct contrast to the established policy of the Disabled American Veterans; and

"Whereas the Disabled American Veterans provides direct surveillance over the conduct of the U.S. Civil Service Commission with a view toward combating any discrimination against veterans and disabled veterans in Federal employment: Now, therefore, be it

"Resolved by the Disabled American Veterans in National Convention assembled at Atlantic City, N.J., August 19-25, 1962, That the national commander, national legislative officers, and the Congress be called upon to oppose any efforts to weaken or reduce benefits provided veterans by the Veterans' Preference Act and to defeat any attempts to convert such measures into law."

This resolution represents a formal expression of the will, policy and position of our national organization. It is, therefore, consistent that we oppose that portion of the bill which would amend sections 2 and 12 of the Veterans' Preference Act. These amendments would only extend veterans' preference to a retired member of the uniformed service if (1) his retirement was based on disability resulting from an injury or disease received in line of duty as a direct result of armed conflict, or caused by an instrumentality of war incurred in line of duty during a period of war; (2) his retired pay was based on less than 6 years of continuous full-time active service not including periods of active duty for training; or (3) his retirement was effected under chapter 67, title 10 of the United States Code, subsequent to such appointment, reinstatement, or reemployment. (This latter category pertains to retired Reserve officers who are entitled to retirement pay by reason of service in a Reserve component.)

The amendments would appear, at first sight, to be innocuous and of small significance. However such is not the case for they would deny veterans' preference in appointments, reinstatements, reemployment, and retention in civil service. Preference in reduction in force would also be denied. The restrictions embodied in these amendments would foreclose veterans' preference to veterans entitled under present law which includes many of those who served during wartime and sustained disabilities as a result of wartime service. Wives, widows, and mothers of these veterans would also be denied preference benefits.

Simply stated, a veteran would not be given any consideration for his wartime service or for his service-connected disabilities except those specifically included in the amendments.

Veterans' preference was primarily adopted to give recognition to the principle that there is a social obligation on the Government to assist as far as possible with employment those wartime veterans who were disabled in its service.

The first law granting preference in appointments to civil offices under the U.S. Government because of military service was passed on March 3, 1865, in the form of a joint resolution of Congress. It provided that: "Persons honorably discharged from the military or naval service by reason of disability resulting from wounds or sickness incurred in the line of duty, shall be preferred for appointment to civil defense, provided they be found to possess the business capacity necessary for the proper discharge of the duties of such offices."

The first law granting preference in reduction in force in the Federal service was passed August 15, 1876. It provided: "That in making any reduction in force in any of the executive departments the head of such department shall retain those persons who may be equally qualified who have been honorably discharged from the military or naval service of the United States and the widows or orphans of deceased soldiers and sailors." These laws have been interpreted and amended numerous times since their enactment, but the basic principle with respect to granting preference in Federal employment to wartime disabled veterans remained unaltered. A notable amendment adopted by Executive order on April 24, 1931, extended disability preference to military personnel retired for service-connected disability or for age or length of service who establish in the same manner the existence of a service-connected disability.

To sustain more firmly the guiding rule that preference in Federal civil service be accorded wartime veterans, a bill relating to such preference was introduced in the House of Representatives February 3, 1941. The bill passed the House and Senate and was approved by the President on June 27, 1944. In this connection, President Roosevelt in a letter endorsing the bill stated: "I believe that the Federal Government, functioning in its capacity as an employer, should take the lead in assuring those who are in the Armed Forces that when they return special consideration will be given to them in their efforts to obtain employment. It is absolutely impossible to take millions of our young men out of their normal pursuits for the purpose of fighting to preserve the Nation, and then expect them to resume their normal activities without having any special consideration shown them." This preference legislation which bears the title "Veterans' Preference Act of 1941" has ever since been the basic law granting veteran preference benefits in Federal employment.

Mr. Chairman, as previously mentioned, the adoption of the preference laws represents an expression of gratitude by our Nation to those who performed military service during time of war. We have tried to bring this precept into proper focus by recalling its origin and its extension through the years to its present state of development. With this principle in mind we suggest that the committee weigh carefully the provisions of H.R. 7381 which would amend the Veterans' Preference Act. We see no necessity at all for including these amendments in any proposal which concerns dual compensation. The Veterans' Preference Act and dual compensation law are now separate and unrelated statutes.

If the ills of the present dual compensation laws are to be cured, we suggest there be written special legislation to cover the matter, and exclude from it any proposals to amend the Veterans' Preference Act.

WARRANT OFFICERS ASSOCIATION
OF THE UNITED STATES OF AMERICA,
Arlington, Va., September 16, 1963.

Hon. OLIN JOHNSTON,
Chairman, Senate Post Office and Civil Service Committee, U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: As president of the Warrant Officers Association of the United States of America, I take the liberty of writing to you to inquire as to the status of S. 1912, introduced by yourself in the U.S. Senate on July 18, 1963, and, more importantly, to solicit your opinion as to the chances of passage during this session of the Congress.

As you know, an identical bill (H.R. 7381) was introduced in the House of Representatives by the Honorable Mr. Murray, chairman of the House Post Office and Civil Service Committee. According to the best information I have been able to obtain, this bill, with minor amendments, is expected to

be reported out of the full committee by a substantial majority on or about the 19th of this month, with passage by the House about the middle or latter part of October. However, I have been advised by various staff officials of the Congress that in view of the unusual press of extremely important legislation of both national and international significance, the passage of a bill by the Senate during this session is somewhat doubtful.

The above bills, designed to modernize and bring up to date dual office and dual compensation legislation enacted in the past, are certainly not of earth-shaking importance when viewed in relation to the important legislative tasks facing the Congress during this session. However, by force of circumstance, there is contained within these bills relief legislation of vital importance to retired temporary warrant officers who are presently employed in a civil service capacity; relief legislation which if not passed during this session will result in many retired warrant officers being summarily dismissed from their Government positions upon the adjournment of the Congress. Since the Warrant Officers Association is vitally interested in the welfare of all warrant officers, whether members or not, you can readily understand my increasing anxiety concerning the passage of these bills.

I am sure that you are generally familiar with the distressing situation in which many retired temporary warrant officers find themselves as a result of the decision of the Comptroller General in the *Matuck* case on April 2, 1963. I would, however, with your indulgence, like to summarize the situation in order that you may understand, and share my concern.

In 1894 the Congress passed the "Dual Office Act" which prohibited a retired officer from holding any office to which compensation is attached, unless specifically authorized by law, if his retired salary or compensation amounted to the sum of \$2,500 per annum. During the many years since enactment of this act, and particularly since World War II, it has been the view of the military departments that the Dual Office Act, while clearly applicable to warrant officers of the Regular Military Establishment, was not applicable to non-Regular warrant officers, as they were not considered to hold an "office" within the meaning of the act, except when actually serving on active duty. The view of military departments in this respect was relied on by other departments of the executive branch, and as a result many retired warrant officers were appointed to civilian positions in all departments of the Government. As for temporary warrant officers themselves, they naturally accepted this view and many of them, upon retirement, applied for and were appointed to civilian positions within the Federal Government. Moreover, many warrant officers felt that they were additionally protected, prior to 1958, by the provision of law contained in section 3448(d) 70A U.S. Statutes at Large, 84th Congress, 2d session, 1956, which provided that if a person appointed a temporary warrant officer was a member of the Army at the time of appointment he could accept the appointment without prejudice to his existing status. As most warrant officers who have now retired were appointed from enlisted status, they have, perhaps mistakenly, construed the term "existing status" to mean that since they were specifically exempted as enlisted men from the provisions of the Dual Office Act, they would continue to enjoy such exemption upon acceptance of appointment to temporary officer.

On April 2, 1963, however, the above views were upset when the Comptroller General ruled that while the act of August 10, 1956, exempted Reserve officers (including Reserve warrant officers) from the restrictions of the act of 1894, no similar provision could be found relating to other non-Regular (temporary) warrant officers. Consequently, the Comptroller General held that those retired temporary warrant officers who are not specifically exempted by the act of August 10, 1956, or by other legislation, come within the restrictive provisions of the act of 1894. The Comptroller General's decision, as I understand it, went on to say, in effect, that all retired temporary warrant officers of the Army and Air Force, and those of the Navy retiring with less than 30 years' service, who have been employed by the Government under mistaken belief that laws enacted by the Congress in the recent past had exempted them from the Dual Office Act, would have to be relieved of their civilian positions.

The Comptroller General's decision, with the serious effect it would have not only on the retired warrant officers presently employed by the Government, but also on those who retire in the future, was brought to the attention of Hon. Carl Vinson, chairman of the House Armed Services Committee. Subsequently, in response to a letter from Mr. Vinson, the Comptroller General indicated

that, considering the hardships to both the Government and the warrant officers concerned, it would not seem to be in the best interest of the Government to require implementation of his decision without first permitting the Congress an opportunity for legislative relief, subject to the understanding that future as well as past salary payments would be subject to collection if legislation is not enacted. The Comptroller General went on to say, however, that unless relief legislation is passed during this session of the Congress, he will issue instructions to the departments to summarily discharge all retired temporary warrant officers from their civilian jobs with the Government, and will institute proceedings for the collection of salary payments.

On May 14, 1963, Mr. Vinson introduced a bill, H.R. 6301, which would afford temporary warrant officers relief from the Comptroller General's decision. This bill was referred to the House Armed Services Committee. On July 2, 1963, H.R. 7381, referred to earlier in this letter, was introduced in the House. This bill which is substantially identical to a bill which died in committee during the last session of the Congress has been revised to include in section 2, subparagraph (g) the relief legislation for temporary warrant officers contained in H.R. 6301.

In view of the introduction of H.R. 7381, Mr. Vinson, on July 2, 1963, indicated that hearings on H.R. 6301 were not being scheduled at that time since the House Post Office and Civil Service Committee was actively considering H.R. 7381. That Mr. Vinson continued to be concerned with the relief legislation for warrant officers is evidenced by his statement before the House Post Office and Civil Service Committee, which I take the liberty of quoting in part:

"I am hopeful, of course, that this committee * * * will make it unnecessary for the Committee on Armed Services to conduct hearings and report on H.R. 6301.

"However, I feel that I must remind this committee that the Comptroller General has only granted a 'stay of execution' * * * until the end of this session of the Congress. * * * retired non-Regular warrant officers face the serious problem of losing their Federal positions unless remedial legislation is enacted during this 1st session of the 88th Congress * * * I hope it will not be necessary to pass special legislation * * * in order to meet the deadline set by the Comptroller General."

Here the matter stands, Mr. Chairman, and because it is late in this session of the Congress, I am sure you can understand our concern. From the responses from various Members of both the House and Senate, I am confident that most of the Congress would support relief legislation for warrant officers during this session. The difficulty is that such relief legislation is included in a "package" bill which would not seriously effect other retired military personnel if the bill were not passed this year. Further, since the bill established a departure from the position of previous Congresses with respect to Regular officers, and contains some controversial features regarding veterans preference, and limitation of retired pay, it required a considerable period of time for all interested parties to be heard. I would assume that this would also be the case if the House bill were approved and sent to the Senate for action, even though as it developed there was no serious opposition to the primary purposes of the bill.

I know that you can appreciate the anxiety retired warrant officers feel with respect to the distressing situation in which they have been placed by the Comptroller General's decision. It is in this vein, therefore, that I respectfully request your views with respect to:

The chances of passage of the "package" legislation (S. 1912, H.R. 7381) during this session of the Congress.

Any other course of action which you feel might properly be pursued by the warrant officers affected if, in your opinion, the above legislation cannot be enacted during this session.

Anxiously awaiting your reply, I remain,

Respectfully yours,

FRANK WEBER, *National President.*

P.S.—I have taken the liberty of enclosing the official statement of the Warrant Officers Association before the House Post Office and Civil Service Committee which perhaps explains more fully the views of warrant officers with regard to the matter at hand.

STATEMENT OF FRANK WEBER, PRESIDENT, WARRANT OFFICERS ASSOCIATION OF THE
UNITED STATES OF AMERICA BEFORE THE HOUSE POST OFFICE AND CIVIL SERVICE
COMMITTEE, JULY 18, 1963

Mr. Chairman and members of the committee, as president of the Warrant Officers Association of the United States of America, I wish to express my appreciation at being invited to appear before your committee in connection with the bill currently before it.

H.R. 7381 was introduced by the chairman of this committee on July 2, 1963. The bill is designed to simplify, modernize, and consolidate the laws relating to the employment of civilians in more than one position, and the laws concerning the civilian employment of retired members of the uniformed services.

On behalf of the Warrant Officers Association I wish to say that we support the passage of this bill, with the exception of one change which we believe should be made before the bill is reported out of this committee. However, since this bill also contains, in section 102, subparagraph (g), important relief legislation concerning retired temporary warrant officers, I would first like to discuss briefly how a member of the uniformed services, retired as a warrant officer, has been considered by law since enactment of the Dual Office Act of 1894.

Under this act a retired officer was barred from holding any other office to which compensation is attached, unless specifically authorized by law, if his retired salary or compensation amounted to the sum of \$2,500.

Prior to the decision of the Comptroller General handed down in the *Matuck* case on April 2, 1963, it was evidently the view of the military departments that the Dual Office Act, while clearly applicable to warrant officers of the Regular Military Establishment, was not applicable to non-Regular warrant officers as they were not considered to hold an "office" within the meaning of that act, except when actually serving on active duty. However, the Comptroller General in his decision of April 2, 1963, ruled that while the act of August 10, 1956, exempted Reserve officers (including Reserve warrant officers) from the restrictions of the act of 1894, no similar provision could be found relating to temporary warrant officers. Consequently, those retired temporary warrant officers who are not specifically exempted by the act of August 10, 1956, or by other legislation, come within the restrictive provisions of the act of 1894.

The Comptroller General's decision, as we understand it, does not affect those temporary warrant officers of the Navy and Marine Corps who retire with more than 30 years' service, since other legislation exempts such personnel from the Dual Office Act. Its effect, however, on other non-Regular personnel of the Armed Forces, who, in the future, retire as temporary warrant officers, will be to deny such personnel the opportunity of employment with the Government in civilian positions for which they may otherwise be highly qualified. Of more immediate concern to the Government, and to the many retired temporary warrant officers who are presently employed by the Government, is the prospect that unless this bill, or other specific relief legislation is enacted, they will be summarily dismissed from their civilian positions and required to return to the Government all moneys received by them during their civilian employment.

As a result of a letter from Chairman Vinson of the House Armed Services Committee, the Comptroller General has indicated that, considering the hardships to both the Government and the warrant officers concerned, it would not seem to be in the best interests of the Government to require the various departments of the executive branch to implement his decision without first permitting the Congress an opportunity for legislative relief. The Comptroller General went on to say, however, that if legislation making the Dual Office Act inapplicable to temporary warrant officers is not enacted during the 1st session of the 88th Congress, it will be incumbent on the departments and agencies to terminate the civilian employment of the warrant officers involved at or about the time the 1st session ends.

Mr. Chairman, one of the guiding principles of the Congress from the birth of our country has been to prescribe a system of laws in which all American

citizens are treated with equal justice; that all laws affecting certain categories of citizens are consistent within those categories. For this reason we are confident that it was through legislative oversight that non-Regular personnel who retired as temporary warrant officers find themselves subject to the Dual Office Act. We are confident that it was not the intent of the Congress to say—

That retired temporary warrant officers are subject to the Dual Office Act, but certain retired temporary warrant officers of the Navy and Marine Corps are not.

That a non-Regular member of the Armed Forces who retires from service as a temporary warrant officer is subject to the Dual Office Act, but a non-Regular member of any of the armed services who retires from service in his Reserve grade (colonel, for example) is not.

That an enlisted man who is appointed a temporary warrant officer and retires from service in that grade is subject to the Dual Office Act, but an enlisted man appointed a temporary warrant officer, who reverts to his former enlisted status, retires, and (under law) is advanced to the grade and retired pay of a temporary warrant officer, is not.

Mr. Chairman, the Warrant Officer Association has solicited letters from retired warrant officers to determine the extent of personal hardship, implementation of the Comptroller General's decision would cause. I would like to read several examples of the information received:

Retired CWO: Was in service 23 years, 7 months, and in combat during World War II and the Korean conflict. Was also a prisoner of war for 22 months until he escaped from the German death march. Employed by Post Office Department 1 year, 6 months. Earns \$2.42 an hour as substitute mail carrier. He is presently 47 years old and would not have much opportunity to start a new career. His wife is totally blind and her job opportunities are, for all practical purposes, nonexistent.

Retired CWO: Employed by Department of the Army 3 years, 10 months. In addition to loss of civilian position, would have to pay back approximately \$18,000. Consequences would be that twin sons currently in college would have to be withdrawn; real estate approximately 50 percent paid for would be forfeited, as would majority of personal belongings in the process of being paid for.

Retired CWO: Employed by Department of the Army 1 year, 10 months. In addition to loss of civilian position, would have to pay back approximately \$8,000. Consequences would be that he could not support his wife and six children, ages 2, 3, 5, 9, 14, and 16. Present age is 40. Further, since he had a heart attack since retirement, it would be practically impossible to find another position. Repayment of moneys would create destitution.

Retired CWO: Employed by Department of the Air Force 2 years, 1 month. In addition to loss of civilian position, would have to pay back approximately \$15,000. Consequences would be that he would lose his newly purchased home; would be unable to adequately house, feed, and clothe his wife and five children, nor continue with the children's education; probable loss of insurance policies. This emotional upset has been detrimental to his health since he already has hypertension difficulties.

Retired CWO: Employed by Department of the Air Force 1 year, 7 months. Would have to pay back approximately \$8,000, in addition to loss of civilian position. Consequences would be extreme hardship on family because he does not have collateral to borrow money to reimburse the Government, nor does he have any savings, and therefore he would probably lose his retirement pay until the Government was fully repaid. Would lose home and receive unfavorable credit rating with VA which certified loan. Could not send 16-year-old son to college. Other employment would be difficult to obtain because, due to back condition and age, he is unable to lift any weight.

The examples just cited stress the hardships which will be visited on many retired warrant officers and their families unless legislation is passed permitting these officers to retain their civilian positions. To round out the picture, however, we consider it appropriate to cite, as an example, a case where the present restrictions on the employment of retired temporary warrant officers will, in the future, be detrimental to the best interests of the Government.

Retired CWO: Upon retirement, has enrolled in the Arizona State University teaching program to prepare for a second career as a teacher in the field of Indian education. This field of education is unable to attract enough qual-

ified teachers due to the relative isolation peculiar to reservation living. Most schools of this nature are operated by the Federal Government, and teachers work under civil service. Result: Unless there is legislative relief for retired temporary warrant officers, the Government will be prevented from utilizing the services of what promises to be a dedicated teacher in an important special field of public education.

In summary, Mr. Chairman, the implementation of the Comptroller General's decision, by terminating a retired temporary warrant officer's civil service employment, or by preventing him from being hired by the Government, would result in these disadvantages or hardships:

Would deprive the Government of an experienced and dedicated source of manpower.

Would deprive the retired temporary warrant officer of the opportunity for employment in the field he is ideally qualified for.

And last, but not least, by causing the retired warrant officer to repay all that he has earned from civil service employment, would bankrupt him, forcing poverty upon him and his family, and destroy all the faith they have placed in their Government.

Section 102, subparagraph (g) of H.R. 7381 will restore to the temporary warrant officer currently employed by the Government, the means by which he can continue to serve his Government even though retired from military service. From his military service, he has brought to the civil service a wealth of experience and training, and a dedication to public service which, in the opinion of this association, makes his services of continuing and increasing value to the Government.

Mr. Chairman, as I mentioned earlier the Warrant Officers Association, with one exception, supports the proposed bill. We take this position because we believe that the bill will go far to provide equal treatment for all retired personnel as respects their employment with the Federal Government after retirement.

The one part of the bill to which the association takes exception is section 102, subparagraph (a), which provides that when a retired member of a uniformed service holds a civilian office or position, he will receive only the first \$2,000 plus one-half of the remainder of his retired pay during such civilian service.

The Warrant Officers Association believes that the Congress has, during this country's history, granted an income to retired military personnel for past services rendered, and for faithful military service performed for the United States in peace and in war. It is therefore the position of this association that such retired income should not be limited as a result of a retired military member accepting civilian employment with the Federal Government. However, if the Congress considers a limitation on retired pay necessary, may we suggest that such limitation be set at a higher rate than is now proposed. In this connection, perhaps the present limitation of \$10,000 on the combination of civilian salary and military retired pay could be raised to \$20,000 per annum, as has been suggested by Chairman Carl Vinson of the House Armed Services Committee. As an alternative to the formula proposed in the bill, and the suggestion of Mr. Vinson, we take the liberty of suggesting that in lieu of a fixed restrictive formula, retired military income be limited in relation to the amount of salary received as a result of civilian employment with the Government. As an example, the law could provide that when a retired member of a uniformed service holds a civilian position with the Federal Government, his annual retired pay would be restricted to that amount which, when combined with the annual rate of compensation of such civilian position, would not exceed the maximum rate of annual compensation payable under Classification Act General Schedules, currently \$20,000 per annum. This flexible formula would make unnecessary future adjustments by the Congress with respect to restrictions on retired pay, as has been the case under fixed rates established by the acts of 1894 and 1932.

Mr. Chairman, in view of the Comptroller General's decision of April 2, 1963, this committee can readily understand the urgency with which this association, and all temporary warrant officers view the necessity for early and favorable action on H.R. 7381. The Warrant Officers Association, on behalf of all active and retired temporary warrant officers, therefore prays that this committee, and the Congress, will favorably consider and enact the proposals contained in H.R. 7381 during this session of the Congress.

As president of the Warrant Officers Association, I wish to again thank you, Mr. Chairman, for permitting me to appear before you and members of the committee in connection with this matter.

CHIEF WARRANT & WARRANT OFFICERS ASSOCIATION,
U.S. COAST GUARD,
Washington, D.C., December 12, 1963.

HON. RALPH W. YARBOROUGH,
Chairman, Civil Service Subcommittee,
Senate Committee on Post Office and Civil Service,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The purpose of this letter is to urge the enactment of legislation to simplify, modernize, and consolidate the laws relating to the employment of civilians in more than one position and the laws concerning the civilian employment of retired members of the uniformed services, now under consideration in the bills, S. 1912 and H.R. 7381, with certain amendments herein suggested.

The Chief Warrant & Warrant Officers Association, U.S. Coast Guard, on behalf of which this letter is written by the undersigned as president, is composed of approximately 2,000 members, which include virtually all chief warrant and warrant officers of that service now in active military status and a substantial majority of those who have been retired.

The association is aware, in detail, of the statement of the Retired Officers Association, presented to your committee by Adm. Louis E. Denfeld, U.S. Navy, retired, its president, and is in complete accord with its contents and recommendations.

Specifically, the association supports the enactment of legislation concerning dual employment and dual compensation, which will accomplish the following objectives:

(1) That any new law which may be enacted repeal the Dual Employment Act of 1891 (act of July 31, 1891; United States Code, 1940 ed., title 5, sec. 62).

(2) That any new law which may be enacted repeal section 212 of the Economy Act of 1932 so that retired officers of the uniformed services, when employed by the Federal Government in civilian capacities will be entitled to continue to receive the retired pay which they have earned by their active service in the uniformed services and the whole amount of compensation for the civilian offices in which they may be employed.

(3) That any new law which may be enacted, insofar as its application to future employments is concerned, apply alike to retired officers of the uniformed services, whether they are of the Regular services or of the Reserve components.

(4) That any new law which may be enacted remove from certain warrant officers the obligation, created by a recent Comptroller General's decision, to repay certain sums of money believed to have been earned by them in accordance with existing laws, as recommended in the legislation as introduced.

(5) That any new law which may be enacted include no new procedural requirements which would make more difficult the employment of retired officers in civilian positions than now applicable under existing provisions as they may be revised in the future in independent legislation.

Sincerely,

JOHN A. KELLER, President.

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